

MARTIN, OLIVER R.

DRAWER 10C

CONTEMPORARIES

7.1.2007.065.03155

Abraham Lincoln's Contemporaries

Oliver P. Morton

Excerpts from newspapers and other
sources

From the files of the
Lincoln Financial Foundation Collection



Indianapolis Indiana
April 1 1861

To A. Lincoln

President of the United States,

The undersigned Citizens
of Indiana, recommend the appointment of
the Hon. Martin D. Bundy of this State, as
one of the Judges of the Territory of
Nebraska. From personal acquaintance
with Judge Bundy, we take great
pleasure in saying that he is a gentleman
of undoubted integrity, ability, and high
moral worth. He is a good lawyer, and
in every way qualified for the position.

His appointment, we are sure, would give
general satisfaction, and be very gratifying to
his numerous friends.

O. P. Morton
Gov. of Ind.

W. H. Steele

Secy of State

J. S. Harvey, Treas. of State

G. J. Elliott, Judge 13th Jud. circuit

Indiansapolis Daily Journal
May 4, 1863

Payment of interest on the State Debt.

State of Indiana, Executive Department,

April 24, 1861.

James Winslow, Esq.,

Dear Sir:—In obedience to my promise, made while in New York, I have the honor to submit the following statement of the law, as I understand it, touching the payment of interest on the Funded Debt of Indiana.

The Attorney-General of the State has published an opinion in which he comes to the conclusion that there is no law of the State authorising the payment of such interest.

After the lapse of sixteen years since the State compromised with her creditors, and the making of thirty-two semi annual payments, this will seem a strange announcement to the world.

I will endeavor to show that his conclusion is not correct.

He defines the word "appropriation," as used in the Constitution, as follows:

"The word *appropriation*, as used in the Constitution, I suppose to mean, an act of the General Assembly, setting aside money to be applied to a definite purpose, with authority to take it from the Treasury for application to that purpose."

This definition seems to imply, that a particular sum of money or fund must be designated or set apart for the payment of a particular debt, as for example, the sum of \$320,000 for the payment of the interest on the public debt in a given year. The definition is not accurate. Many appropriations, perhaps a majority, are made upon the whole Treasury, and for which no specific fund or sum of money is set apart.

An able lawyer has defined an appropriation as "a legal provision for the payment of a debt due from the State, or to become due, out of the funds of the State."

Another lawyer, of acknowledged ability and learning, speaks of an "appropriation," thus: "The term 'appropriation' made by law' has no peculiar significance other than that there is a law requiring payments to be made out of public moneys of the State, whether the amount shall be specified in the law or left to calculation, as the amount of interest to be paid on a public debt and the quarterly payments made to our public officers where they have fixed emoluments." These definitions are in substance the same.

An appropriation, why, he says, is defined as a direction given by law to pay money out of the Treasury for a particular purpose. This direction may be specific, as in terms, or it may be necessary intendment of a legislature's act. If a direction to pay money is in direct terms, or in the necessary construction of a legislative act, it is an appropriation within the meaning of the Constitution.

It is, gain all other cases, a question as to the intention of the Legislature, which is to be arrived at by the ordinary rules of construction; if it is the intention that money should be taken from the Treasury, for a particular purpose, then such intention is the law, and is an appropriation.

The act of 1846, ratifying the compromise with the creditors of the State, contains the following section: "Sec. 5. The interest on the stock hereby created shall be payable half yearly, at the City of New York, on the first days of January and July of each year, commencing on the first day of July, 1847. But if the interest for any half year shall not be demanded before the expiration of thirteen months from the time the same became due, it shall only be demandable afterwards at the Treasury of the State, and for the payment of the interest and the redemption of the principal, as herein provided, the faith of the State is hereby solemnly pledged."

This section solemnly pledges the faith of the State to the payment of the interest on the funded debt in the City of New York on the first day of January and July of each year, and is a contract of the most binding character, the faithful observance of which is vital to the credit of the State. It is a legal and necessary intendment of this contract that the money shall be drawn from the State Treasury to pay the interest.

On the 27th day of January, 1847, an act was approved, supplemental to the act of 1846, which was accepted by the bondholders, and becoming part of the contract. The concluding part of the 14th Section of this act is in these words:

"Be it further enacted, That all stock to be created, and all certificates and other instruments of title to be issued in pursuance of the said act, and all principal, money, and interest thereto respectively secured, shall not be molested or impaired, arrested or attached by the State of Indiana."

I submit that it is not in the power of the Legislature to hinder or defeat the payment of the interest on the public debt by the adoption of new regulations, or by making such payments dependent upon uncertain legislation from year to year.

The supplemental act also provides the form of the obligation to be issued by the State to her creditors. Which I quote as follows:

"\$1,000. No.—

UNITED STATES OF AMERICA.

STATE OF INDIANA.

Five per centum State Stock.

"Under two acts of the General Assembly of the State of Indiana, entitled "An act to provide for the funded debt of the State of Indiana and for the completion of the Wabash and Erie Canal to Evansville," passed 19th January, 1846, and "An act supplementary to the said act," passed [redacted] 1847.

"Principal chargeable on the revenues of the State, pursuant to acts of the Legislature of Indiana, passed the 19th of January, 1846, and [redacted] 1847.

"Be it known, that the State of Indiana owes to A. B., or his assigns, the sum of one thousand dollars, being part of the principal of the bonds of the State, declared to have been surrendered to the State, by act of surrender of this date, and which amount of one thousand dollars bears interest at the rate of five per centum per annum from the first of January, 1847, payable half yearly in the City of New York, at the times and in the manner declared by the acts of the Legislature above mentioned.

"This stock is redeemable at any time after twenty years from nineteenth January, 1846, at the pleasure of the State, in the City of New York, and until redeemed is transferable upon surrender in the City of New York, in books provided for that purpose by the Agent of State, there residing, by endorsement hereon, and according to such other rules and forms as are or may be prescribed for that purpose; and for the payment of the interest and the redemption of the principal aforesaid, the faith of the State of Indiana is irrevocably pledged."

"This debt is duly recorded, &c.

"Witness our hands at Indianapolis the day of [redacted] 1847.

"Countersigned, Treasurer.

"Auditor."

To this obligation a postscript is attached in these words:

"N. B. The State reserves the right, (according to the terms and conditions of the said acts,) to postpone payment of a portion of the interest due upon this certificate until first January, 1853, paying interest on the same at the rate of six per centum, per annum, and to fund one per centum of the same without interest after that period, at the rate of two and one half per centum."

Is it possible that further legislation is required to authorize the State to pay the interest on this obligation? The State makes her written promise to pay at particular times, and delivers it to her creditor, which upon presentation to the proper officer, is a direct and sufficient authority for payment. If it is not, then the promise of the State carries with it no obligation, and the authority to pay must be derived solely from subsequent legislation.

The old Constitution contained the following:

"Sec. 21, Article III. No money shall be drawn from the Treasury, but in consequence of appropriations made by law."

The new Constitution was first forced upon the 1st of November, 1851, and contained the following proviso:

"Sec. 3, Article 10. No money shall be drawn from the Treasury, but in consequence of appropriations made by law."

It will be seen that these provisions are in substance the same. The successive Legislatures of 1847, '48, '49, and '50, accepted the Sections quoted from the acts of 1846 and '47, as an appropriation to pay interest within the meaning of the Constitution, and made no other except in three special acts in 1849, 1850, and 1851, authorising the borrowing of money and directing the money to be borrowed to be paid on the interest on the public debt, which direction was nothing more than

a statement of the purpose for which the money was borrowed.

The State Officers during the same period accepted them as an appropriation. The auditor drew warrants for the necessary amounts and the Treasurer paid them.

Many of the men who framed the new Constitution were in the first Legislature that assembled under it. That Legislature did not deem it necessary to make any further appropriations to pay the interest upon the public debt, believing that the acts of 1846 and 1847 were sufficient for the purpose. The opinion was acted upon by every Legislature up the fall of 1858, and specific appropriations were not made before that time for the payment of interest. It was also accepted and used upon during the same period by the officers of State.

Thus from the beginning, the acts of 1846 and 1847 were accepted both by the Legislature and the State officers, as a sufficient appropriation under the Constitution.

The new Constitution contains the following provision:

"Sec. 2, Art. X. All the revenue derived from sale of any of the public works belonging to the State and from the net annual income thereof, not otherwise appropriated at any time in the treasury, for the payment of general state purposes, and the payment of the ordinary expenses of the government, and of the interest on bonds of the State, other than bank bonds, shall be annually applied under the direction of the General Assembly to the payment of the principal of the public debt."

This provision is in itself a direct appropriation to the payment of the principal of the public debt, of all the money remaining in the Treasury after the payment of the ordinary expenses of the government and the interest on bonds of the State, other than bank bonds.

This appropriation, however, cannot come into operation until after the payment of the interest on the bonds of the State, if done with it a necessary implication the principal should be paid out of any surplus in the Treasury. The Attorney-General says, however, that this section is an opportunity to pay interest, it is also, to pay the ordinary expenses of the government.

This does not follow, for the ordinary expenses of the government from their inception are not liquidated, and therefore, cannot only be liquidated and determined by legislation from time to time, while the interest on the public debt is liquidated and determined in the most regular form. The ordinary legal authority was required to decide the act of 1846 and the supplement to it to pay the interest, it will be found in the provision of the Constitution.

Thus for a period of twelve years the various Legislatures and Auditors and Treasurers of State received the acts of 1846 and 1847 as a sufficient appropriation within the meaning of both Constitutions upon which twenty-three semi-annual payments were made, and more than three millions of dollars disbursed. All the laws that were in force during these twelve years are still in force, under which the interest was paid, and, after such long acquiescence and practice by Legislature and officers of State, it is too late to say there is no appropriation.

In 1857 the Legislature adjourned without making the ordinary appropriations for the support of the Benevolent Institutions, and without having passed a Revenue Bill. The Hon. Joseph E. McDonald, a lawyer of reputation and ability, was then the Attorney General of the State. He advised Governor Willard and the State officers that no further legislation was required to authorize the payment of the interest on the funded debt of the State, as the act of 1846 was a contract with the bond-holders and a sufficient appropriation. He, however, gave the opinion at the same time that there was no appropriation under which money could be lawfully drawn from the Treasury for the support of the Benevolent Institutions.

Under the authority of this opinion and in pursuance of the practice for the preceding ten years, Governor Willard, together with the Treasurer and Auditor of State, borrowed \$165,000 to pay the July interest in 1858.

The Attorney General quotes the passage from the message of Governor Willard to the extra session in the fall of 1858.

In his commentary on the passage he represents the Governor as defending his act in paying the interest on the public debt without an appropriation as a matter of public necessity to save the credit of the State. He has imperfectly read the passage, and too misapplication of it is total. The Governor said nothing of the sort. In that part of the message, in which the Governor refers to the absence of an appropriation, he is speaking of the Benevolent Institutions. And in that part in which he speaks of borrowing money, he refers to the payment of the interest on the public debt. The case stood thus; for the payment of the interest on the public debt, there was an appropriation but not sufficient money in the Treasury for the support of the Benevolent Institutions there was money in the Treasury but no appropriation on which to pay it out.

On the 24th day of April, 1857, Governor Willard, published in the "Indiana State Sentinel" an address to the people of Indiana, from which I extract the following passage:

"By laws which were passed by previous Legislatures, provision is made for establishing every department of the Government, excepting the Benevolent Institutions. The tax levied for the support of the common schools, and two cents upon each one hundred dollars, for the purpose of paying the principal of the public debt." As long as there is money in the Treasury belonging to the State, it is believed that there is authority to pay the interest on said debt."

In this passage he clearly states his opinion that there is authority to pay the interest on the Public Debt as long as there is money in the Treasury, and that every department of the Government was provided for by previous legislation, excepting the Benevolent Institutions. Further on he used the following language:

"Again, on the 19th day of January, 1846, the Legislature passed an act to provide for the funded debt of the State, in which your faith was solemnly pledged for the payment of the interest on said debt, and on the 27th of January, 1847, another act of the Legislature was passed repealing the obligation given in the previous year, to the creditors of Indiana."

"Ever since those acts were passed, the State has maintained her faith and credit, the result of which has been to encourage the introduction of population and capital into the State."

He then complained that the Legislature had adjourned without passing a Bill levying taxes with which to pay the interest in 1857 and 1858.

The only responsibility which Gov. Willard and the State officers took by paying the interest on the public debt in 1858, was in borrowing the money for that purpose, which was clearly authorized by the act of 1852, which act is still in force.

The quotations which the Attorney General makes in his Opinion from the Debates in the Legislature of 1859, are irrelevant, as they refer to the legality of the loan made by Gov. Willard, and not to the absence or existence of an appropriation.

The Treasury act of 1859, and the Embezzlement Bill of 1861, are not broader than the Constitution. They do not make that illegal which was not illegal before. It required no more to constitute an appropriation after the passage of those bills than before. They simply affixed punishment for paying money out of the Treasury improperly, where before there was none. The simple question is, as to the existence of an appropriation, within the meaning of the Constitution, and this is conceded by the Attorney General, as he does not contend that an appropriation good before the Embezzlement Bill is not good after it. This was expressly decided in the case of Lange, Auditor vs. Slover, at the November term, 1862, of the Supreme Court of Indiana, in which case it was held that the State Auditor could draw a warrant under the general appropriation contained in the Swamp Land act of 1852 notwithstanding the Treasury act of 1859 and the Embezzlement Bill of 1861. Where the appropriation is general it can be paid out of any money in the Treasury not otherwise appropriated; when it is special and payable out of a particular fund it must be paid only from that fund. The section quoted by the Attorney General from the Act of 1859, means this and nothing more. Instances illustrating the first class may be found in the appropriations for the payment of the interest on the public debt, and the salaries of the State officers. Instances of the second class may be found in former appropriations for the support of the Benevolent Institutions, at a time when a separate and specific tax was levied to raise a fund for that purpose.

At the regular session of 1859 an act was passed entitled an act to provide a Treasury system for the State of Indiana, for the manner of receiving, holding and disbursing the public money of the State, the 16th section of which reads as follows:

"At some convenient period, prior to the falling due of the interest on the foreign debt of the State payable at New York, the Governor shall, without making any discrimination, draw on the bank notes in the

Treasury an amount of specie equivalent to the said interest, which he shall transmit to New York by express, or otherwise, as may be deemed most safe; but any bank or banks on whose notes such is thus demanded, may remit such notes to the extent of such dividends, by draft on New York, payable fifteen days preceding the day of payment of said interest, and without any punishment or deduction, and giving ample security to the Treasurer for the prompt payment thereof.

This section is disposed of in the following manner by the Attorney General.

The interest on the State debt was payable in New York, and at the time this act was passed, there existed no statute providing the manner in which the money should be transmitted to that city, and making it the duty of any particular person to perform that service; and this section does nothing more than provide the instrumentality by which the interest shall be transmitted to the place of payment.

It is true this section provides the manner in which the money to pay the interest on the public debt should be transmitted to New York; but it does more. It declares that at a convenient period before the interest falls due, which is on the first days of January and July of each year, the Treasurer shall take from the State Treasury enough money to pay such interest, and transmit the same to New York for that purpose. He has no discretion in the matter. The act to be performed by him is not made contingent upon future appropriations or legislation. He can be excused from its performance only by the want of money in the Treasury, and in that case it is made his duty by another act of the Legislature, together with the Governor and Auditor, to borrow an amount sufficient to meet the deficit. The section constitutes an appropriation taking precedence of all others. The Treasurer is ordered to take, twice a year, enough money from the Treasury to pay the interest; and how shall he escape obedience to the mandate? He cannot shelter himself behind the opinion of the Attorney General, on any form of construction, however learned and ingenuous.

The command is plain, direct, unconditional, and must be obeyed. If before technical objections could be raised of the want of formal appropriation, they were completely removed. Will the Treasurer perform this most plain and important duty? I believe he will. I believe he is an honest man, and will not permit any influence to stand between him and the discharge of a duty so vital to the good name and welfare of the State.

The credit of the State, at one time greatly depreciated, has been restored by many years of faithful observance of her obligations, and if blemish again come upon it, who be those by whom it shall come?

The Attorney General quotes the 7th section of the Treasury act of 1859, prohibiting the Treasurer from paying any money out of it, or transferring any money from the Treasury, except upon the warrant of the Auditor.

If this section applies to the interest on the public debt, it is the duty of the Auditor to issue his warrant for the requisite amount in time to enable the Treasurer to send the money to New York as required by the section above quoted. I submit, however, that it has no application, and the Attorney General has failed to notice the fact that this section and the 16th section before quoted are parts of the same act, and are to be construed together.

The practice under the act of 1859 has been this. At a convenient time before the first of January and July, of each year, the Treasurer would transmit to New York a sum of money sufficient to pay the interest, place it there in the hands of the Agent of State, taking his receipt for the same, and afterwards take this receipt to the Auditor, and obtain the necessary warrant. This practice prevailed throughout 1859 and 1860 under the administration of Nathaniel F. Cunningham as Treasurer, and John W. Dodd as Auditor, and afterwards through 1861 and 1862, under the administration of Jonathan S. Harvey as Treasurer, and Albert Lange as Auditor.

The 16th section was regarded and acted upon by the State officers, as making the interest an exceptional case, not governed by the 7th section.

To show that the Legislature did not regard the section I have quoted from the act of 1859 as constituting a sufficient appropriation, he quotes the following statement:

" Bearing upon the effect of the section, I call your attention to the fact, that the same Legislature that enacted it, and after it had been passed, passed an appropriation bill appropriating \$320,000 for interest for the year 1859, (Act 1859, 11;) also \$320,000 for interest for 1860, (Act 1860, 4;) and that the Legislature of 1861 made similar appropriations for the years 1861 and 1862, (Acts 1861, pages 6 and 7.)"

On the 11th day of April, 1863, the Attorney General obtained from the Auditor a warrant for his salary for the quarter ending on the 31st of March, 1863, which warrant was promptly paid by the Treasurer.

The payment of this salary was legal and proper, and I refer to the fact only to show that the Attorney General has made a practical decision of the question at variance with his written opinion.

The act of 1861, which contains the specific appropriations for the payment of the interest on the public debt, also contains specific appropriations for the payment of the salary of the Attorney General and other Officers of State. Yet the absence of specific appropriations for salary in 1863 is not, in the opinion of the Attorney General, a sufficient reason why he should not draw his salary.

He argues, in substance, that the Legislature of 1861 believed the section I have quoted from the Treasury act not a sufficient appropriation to pay interest, else they would not have made special appropriations.

According to this logic this Legislature was of the opinion that the general law regulating the salaries of State Officers, also passed in 1859, was not sufficient to authorize their payment, and that special appropriations were required. But against this argument, drawn from legislative action, the Attorney General enters his practical dissent.

The general salary act does not come within the definition of an appropriation. It does not set apart any specific sum or fund for the payment of salaries. It is general in its character, and is an authority to pay out of any money in the Treasury not otherwise dispensed of.

The 32d section of the act regulating fees, approved March 2, 1855, reads as follows:

"The Secretary, Auditor, and Treasurer of State, shall furnish at the expense of the State the necessary record books and office time and stationery for the offices of the Secretary, Auditor, and Treasurer of State and Clerk of the Supreme Court, and Justices shall be paid for the use of the General Assembly."

The Attorney General, in a written opinion recently delivered to the Auditor, decided that this section makes an appropriation, and authorized the Auditor to draw warrants, and the Treasurer to pay them, for the purposes therein mentioned. "The section does not contain an appropriation in terms, nor does it set apart any money or funds."

He declared, however, that certain articles shall be furnished at the expense of the State, from which the Attorney General infers the appropriation and the authority to take the money from the Treasury. Is this declaration that certain articles shall be furnished at the expense of the State, stronger than the solemn promise of the State repeatedly made to pay the interest upon her debt at a certain place and at specified times?

Can authority be inferred in one case and not in the other? If, when provision is made to furnish certain articles at the expense of the State, it is a necessary inference that the money to pay the expense shall be drawn from the Treasury, is it not likewise a necessary inference that money shall be taken from the Treasury to meet the interest on the public debt which the State solemnly bound herself to pay at a particular time and place? And how can the Attorney General hold this section to be an appropriation, and break the force of the 16th section in the Treasury act of 1859, by calling it directory? And in the Treasury act of 1859, and the Finney-Glemon bill of 1861, do not impair the character of this section as a good appropriation, nor make payments under it optional, with what show of reason can it be pretended that they affect the right to pay the interest on the funded debt of the State?

It is not to be supposed that the payment of the interest upon the public debt should be left to the uncertainty of legislation from year to year, to be hindered or defeated by the accidental or wilful failure of any legislature to make an appropriation. It is eminently proper that it should have been provided for by general and continuing legislation, and not left open to the neglect or caprice of each succeeding legislature.

It is of the essential nature of such stocks that permanent provision be made for the payment of the interest, and if it were understood that the interest was not provided for, and its payment depended upon legislation from year to year, the value of our stocks in the market would be greatly diminished and our chances for future negotiations much impaired.

The act of 1846 was regarded at that time, and the act of 1859 was intended to give increased security against failure from the neglect or errors of judgment in State officers by making imperative the provision for sending the money to the place of payment in due season.

And so careful was the Constitutional Convention in 1850 to provide for any contingency

that might arise to interfere with the payment of the interest on the public debt, that a special provision was made in the Constitution to annihilate the borrowing of money for the payment of such interest.

Sec. 1. Article 16th of the Constitution declares that no law shall authorize any debt to be contracted on behalf of the State, except in the cases mentioned, of which to pay the interest on the State debt is one.

And the Legislature at its first session under the new Constitution carried out the provision by the following enactment to-wit:

Section 6 of an act prescribing duties of Governor, approved May 27, 1855, provides as follows: "The Governor, Auditor, and Treasurer of State are hereby authorized to procure a temporary loan of money sufficient in amount to meet the deficiency in the Treasury, should any such occur, to pay the semi-annual dividends of interest on the State debt."

It is a necessary construction of the above section that if there be money in the Treasury the interest shall be paid. It is predicated upon the obligation of the State punctually to pay the interest on her debt, and assumes the existence of all legislation necessary for that purpose.

Further argument is unnecessary. By his decision upon the act of 1855, regulating fees, the Attorney General has overruled the principles he sought to establish in his first opinion, and has recognized a rule broader even than is necessary to authorize the payment of the interest on the public debt. The law is plain, the money is in the Treasury, and if the interest is not paid the responsibility will rest with those officers upon whom the law has devolved the duty of making the payment.

"Very respectfully yours,

Oliver P. Morton,

Governor of Indiana.

For whether it be authoritative or not, whether it will be regarded by the State officers or not, it cannot but have a bad effect on the State's credit. We understand that it has been industriously circulated through New York since its appearance, and that our State Agent has been active in confirming it and in trying to secure the acquiescence of other State officers in it. So far the conspiracy had progressed when Governor Morton wrote his letter to counteract the mischief in New York where it operates most directly upon our cred. Since then a movement of the party has been commenced to support these leaders and to see the State ignorepudiation. A meeting in Marshall county a few days ago, under the lead of Packard, resolved that there was no authority for the payment of the interest, and that it should not be paid. This movement will stop with one county. But we are glad to know that many influential and leading Democrats resist it, and associate with the Governor, that there is abundant law for the payment of the interest and the preservation of the State's credit.

To counteract this movement, and fully inform the people of the law, and the duty of the officers of State in regard to the subject, the Governor's letter is now published. A glance at its points will show how well based is his conclusion that the contract with the bondholders is itself an appropriation continuing till the payment of the whole debt, which no failure of legislation can defeat or affect.

1st. He shows that an "appropriation" is a direction given by law for the payment of money out of the Treasury for a particular purpose.

2d. He shows that the acts of 1845 and 1847 ratifying the compromise made with our bondholders, and the form of the new bond issued to them, "pledge the faith of the State solemnly and irrevocably" to the payment of the principal and interest of the debt represented by the bonds. As the amount of interest can always be exactly ascertained, there can be no necessity for any further provision for the payment of it. No mere bidding "directed to pay money," or "appropriation," could be made than this.

3d. He next shows that the Legislatures of 1847, '48, '49, and '50, the four immediately following under the old Constitution, that by which the contract with our creditors was made, regarded its provisions as all the appropriation necessary, and made no other of any kind in the first two years, and in the other two only such as was necessary to enable the State to borrow money to pay the interest. The borrowing and not the paying was the controlling motive of the provision. The same provision for "borrowing" was made in 1851. Under the new Constitution the old policy

Letter of Gov. Morton to James Winslow of New York, on the payment of Interest on the State Debt.

The letter of Gov. Morton to James Winslow of New York, on the payment of interest on the State debt, which we publish this morning, will command more general attention, and enforce a more general application, in its conclusions, than any document that has emanated from an Executive pen in this State for many years. The importance of the subject is great; it is, being nothing less than the preservation of the State from the dire risk of repudiation, is lost additional interest by the masterly ability with which it is discussed. The argument for the authority to avoid such a catastrophe is complete and overwhelming. It leaves nothing to be added or explained, and if it leaves any doubt as to the duty of the State officers to pay this interest, it is because partisan bigotry is impenetrable to any consideration but its own advantage, or what it regards as equivalent, the injury of the State. The public are generally aware of the circumstances in which this letter originated, but that we may present the whole case at one view, we may here state them briefly. The Legislature adjourned without making any appropriations. Soon after, certain copperhead leaders seeing a chance to damage the credit of the State, commenced to press forward the question whether, in the absence of a specific appropriation to pay the interest on the State's debt, any payment could be made. They knew that the failure to pay a single instalment of the interest, through the refusal of the legislature to appropriate money for it, would ruin the State's credit, for if the refusal of any one legislature to make such an appropriation could defeat a payment altogether, any succeeding legislature could again defeat it, and all confidence in the certainty of regular payments, or any payments at all, would be destroyed. The necessary consequence would be the ruin of our credit. The Sentinel willingly lent itself to this scheme, and began some weeks ago throwing out "leaders" for it. Then Attorney General Hovey published an official opinion, declaring that there was no law for the payment of the interest, and that no State officer could pay it without subjecting himself to the penalties of the impeachment bill. This opinion, if an authoritative declaration of the law, makes the State, with her Treasury loaded with money, repudiate a debt to which, by solemn enactment, her faith is "irrevocably pledged." It puts into the hands of the conspirators the most effective weapon they can ask. It is a masterpiece document, judiciously timed!

was required and no appropriation was made for interest till 1858. Nobody ever thought of doubting that the contract was ample provision for its own fulfilment, and that none more obligatory or complete could be adopted. For five years, therefore, the act of 1846 was taken as a sufficient appropriation for the debt created. Twenty-three semi-annual payments amounting to over \$3,000,000, was made under it. A stronger chain of precedent would be hard to find in the history of any State, in regard to any line of policy.

4th. He next cites the case of Governor Willard, and the failure of the Legislature to make appropriations, in 1857, a case exactly parallel to the present, except in the single feature that Gov. Willard had to borrow money to pay interest, and now the Treasury is stuffed with money, and don't need to borrow. The legislature made no appropriations that year. Under the advice of the then Attorney General, Joseph E. McDonald, he resolved to pay the interest on the State debt anyhow, and he did it. He was supported by his whole party, including Mr. Hord, and we heartily and fully supported him, too, though not of his party. We support the same policy under the same circumstances now. Mr. Hord does not. He tries to break this fall by insisting that Gov. Willard claimed no authority for the act of paying that interest, and did it only "as an act of public necessity." We might say, "No matter what the pretext, sir, you sustained it." If it was an act of necessity then, how much less is it act of necessity now?" We should like to hear Mr. H. elaborate this point of personal consistency. But Gov. Morton ungenerously snatches from him even the little relief to his fall which he sought in this statement of the case, by quoting from Gov. Willard's address of April 24th, 1857, as follows: "So long as there is money in the Treasury belonging to the State it is believed that there is authority to pay the interest on said debt." It is said that "the man who pleads his own case has a fool for a client," and Mr. Hord's sly attempt to vindicate his own consistency by misrepresenting Gov. Willard's views, proves that even an

Attorney General may be a fool in some respects.
5th. The Governor has shown in the "appropriation and treasury bill" made in 1857, that he understood that the act of 1846 was an "appropriation," which was to be used in making that from being an appropriation was to take. They only provided a punishment for paying money out of the treasury without an appropriation.
6th. Mr. Hord is inconsistent. He sent an official opinion to supports conspiracy against the credit of the State, but he didn't adhere to his opinion when it affected his own pocket. The Legislature made no appropriation for the payment of his or any other salary, or any State expenses, except legislative, yet Andrew A. Allen salary on the 11th of last month without an appropriation. So it seems that it is legal for an attorney general to draw pay without a specific law, for giving his official opinion that it is not legal for the State to preserve her faith and pay her debt without a specific law. A very convenient conscience hath Mr. Hord. The salary act is no more, not one thousandth part so much, an appropriation as the contract with the State's creditors, and he knew it; but that makes no difference. He gave his place for the money, and he has got his money. But Mr. Hord's singular obliquity of legal vision has rested on other cases than his own. He recently gave a written opinion that the act of 1855, providing books, stationery, &c., for the State office was an "appropriation" for those articles, and they could be paid for without any further appropriation out of the Treasury. He infers an appropriation from the authority to buy the articles. But he cannot infer an appropriation from the solemn contract of the State to pay her debts. Again the State Librarian, Mr. Stevenson is working away vigorously and judiciously, to replant the State House yard with trees and put it in good repair. There is no appropriation for it, but Mr. Hord says it is all right and legal. What the opinion of a man who holds it so conveniently, or understands it so little that he never knows when he contradicts it, is worth, we shall leave the public to judge.
With the demolition of Mr. Hord's opinion by the Governor, and himself, we may rest the case. In referring to the Governor's letter we have only designed to notice its leading points, and draw the reader's attention to them. The connecting reasoning builds them massive and enduring as granite. Mr. Hord need not flatter himself that so enormous a battery has been planted and discharged to demolish him. The smallest pistol bullet of a paragraph would have done that. But the mischief a weak man may do in a high office is not measured by his own strength, nor must the effort to counteract it be measured by the same standard.



Lincoln Lore

Bulletin of The Lincoln National Life Foundation . . . Dr. R. Gerald McMurtre, Editor
Published each month by The Lincoln National Life Insurance Company, Fort Wayne, Indiana
(6401)

Number 1620

Fort Wayne, Indiana

February, 1973

The Indiana Election—October 11, 1864

In the month of October, 1864, the strength of the Union (Republican) Party was to be tested by state contests to be held in Pennsylvania, Ohio and Indiana. The Republican political prognosticators "had not dared hope for victory in Indiana."

There were certain problems confronting the Republicans in Indiana. Thousands of their voters had gone to war and the State constitution provided that these men must cast their ballots in the precincts in which they respectively resided. No law could be passed, as in other states, allowing them to vote in the field.

While it was believed that the great majority of Indiana's soldiers would vote Republican, the Democrats insisted that the soldiers were of their political faith. Leaders of both parties requested Republican Governor Oliver P. Morton, himself a candidate for re-election, to apply for furloughs for all legal Indiana voters. This he agreed to do.

In fact, Morton had already taken action in this direction and, as early as April, 1864, he had requested the Washington authorities "to permit our soldiers to come home and vote . . ." On a recent visit to Washington, he had again renewed his request. Secretary of War Edwin M. Stanton agreed with Morton and willingly co-operated with him, even accompanying the Governor in a meeting with President Lincoln.

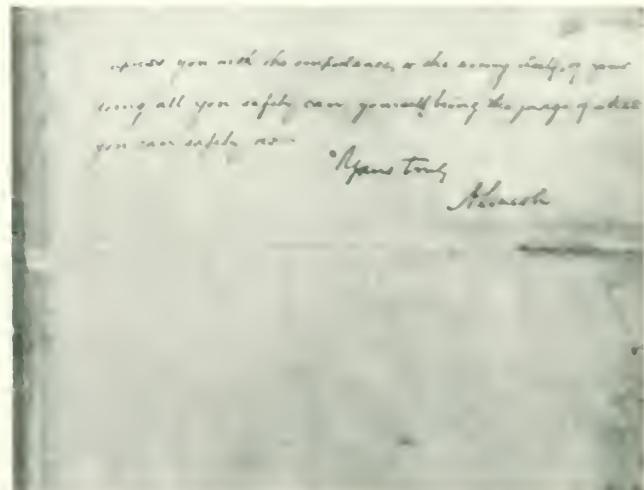
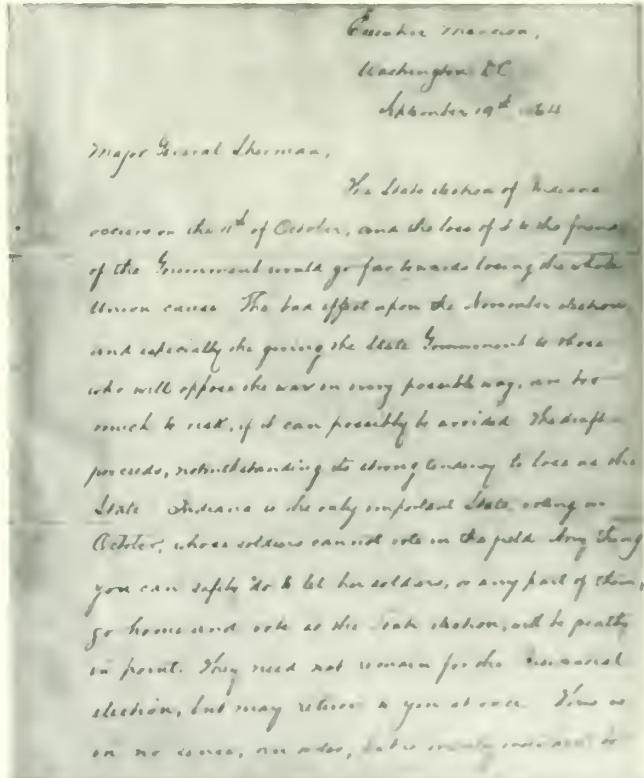
In the interview with Lincoln, Morton expressed his belief that the votes of 15,000 soldiers were necessary to win the election for the Republicans. He further stated that, "if Indiana went Democratic, she would be withdrawn from the column of loyal states and would no longer furnish any substantial aid to the government." According to William Dudley Foulke in his *Life of Oliver P. Morton*, Vol. I, page 366, Lincoln answered: "It is better that we should both be beaten than that the forces in front of the enemy should be weakened and perhaps defeated on account of the absence of these men."

Another problem confronting the Indiana Republicans was a military draft to be held the latter part of September. Earlier drafts had caused a bitter feeling and, coming so near the October 11th State election, spelled political disaster in the minds of many timid Republican politicians. Morton had asked the President to delay the draft until after the State election, but Lincoln had refused.

Accordingly, Morton wrote to the Hon. Edwin M. Stanton, on September 12, 1864, the following letter, which was signed by him and fifteen influential Indiana Republicans:

"Sir—Assembled from the different parts of Indiana, and practically familiar with the influences now at work in each congressional district of the state, we express it as our profound conviction that upon the issue of the election that occurs within a month from this date may depend the question as to whether the secession element shall be effectually crushed or whether it shall acquire strength enough, we do not say to take the state out of the Union, but practically to sever her from the general government, so far as future military aid is concerned.

"We further express the gravest doubts as to whether



From the Lincoln National Life Foundation
Abraham Lincoln to Major-General Sherman, September 19th, 1864, L. S., 2 pages, 7 3/4" x 9 3/4".

it will be possible for us to secure success at the polls on the 11th of October unless we can receive aid—

"1. By delay of the draft until the election has passed.

"2. By the return, before election day, of fifteen thousand Indiana soldiers.

"As to the draft, we propose an informal delay only, of which no public notice need be given. Reason sufficient will suggest itself in the time necessary to adjust the local quotas of townships, towns and cities, without the careful settlement of which, great dissatisfaction, even among the loyal, can not be avoided.

"Volunteering is going on rapidly at this moment, and we have no hesitation in expressing the confident opinion that if the draft be delayed, and fifteen thousand Indiana troops be ordered home before the election, with suitable arrangements for recruiting, Indiana's entire quota can and will be filled by volunteering within two weeks after election day. She is at this time ahead, after filling former quotas, fully fifteen thousand three years' men.

"Thus the government will obtain the recruits it has demanded about as soon as by pressing compulsory measures at once, and it will secure itself against the possible loss of the power and influence of the state for years to come.

"If the draft is enforced before the election there may be required half as many men to enforce it as we ask to secure the election. Difficulty may reasonably be anticipated in from twenty to twenty-five counties. If the draft goes on immediately after the election, the soldiers will be on the spot to secure its being carried into effect, should that be necessary. But we are confident that if our propositions are adopted no draft will be needed at all.

"The case of Indiana is peculiar. She has, probably, a larger proportion of inhabitants of Southern birth or parentage—many of them, of course, with Southern proclivities—than any other free state, and she is one of the few states in which soldiers are disfranchised.

"It is not on the score of Indiana's past deserts that we ask this assistance. All such considerations must give way before the public good. We ask it because the burden of this political contest is heavier than we can bear. Nor have we asked it before exhausting every effort which loyal men can make for their country. We ask it for that country's sake. We ask it, because we feel absolutely assured that in this way more readily and more speedily than in any other can the general government accomplish the object it proposes.

"If it were possible that you could see and hear what we, in the last month, each in his own section of country, have seen and heard, no word from us would be needed. You would need no argument to prove that a crisis, full of danger to the entire Northwest, is at hand.

"We do not expect any general commanding, engrossed with vast military operations, to realize this. And therefore, while of course we do not urge any withdrawal of troops that would imperil the situation in Georgia or elsewhere, we suggest that a mere re-

quest to General Sherman, or other commander, to send home, or not send home, the troops in question, as he might think best, unaccompanied by an expression of the urgent desire of the government in the premises, and a view of the vast interests at stake, would be of no avail. No commander willingly diminishes his command. To what extent it may be prudent or proper to make the order imperative, we, not having the entire situation before us, can not judge. We hope you will see, in our most precarious condition, cause sufficient to do so.

"The result of the state election, whether favorable or unfavorable to the government, will carry with it, beyond a doubt, that of the Presidential vote of Indiana.

"All which is respectfully submitted,

"O. P. Morton,

"E. Dumont, 6th District.

"Godlove S. Orth, 8th District.

"C. M. Allen, 1st District.

"Thomas N. Stillwell, 11th District.

"Ralph Hill, 3d District.

"John H. Farguhar, 4th District.

"James G. Jones, A. A. P. Marshal-General.

"W. W. Curry, 2d District.

"J. H. Defrees, 10th District.

"S. Colfax, 9th District.

"John L. Mansfield, Maj.-Gen. Ind. Legion.

"James Park, Capt. P. Mar. 8th District Ind.

"Charles A. Ray, Judge 12th District.

"A. H. Conner, Postmaster, Indianapolis, Ind.

"J. T. Wright, Ch. St. Cent. Com.

"Indianapolis, September 12, 1864."

As a result of the efforts of the Indiana Republicans in general and Governor Morton in particular, Lincoln wrote General William T. Sherman, whose headquarters from early September, 1864, until October 4th was in Atlanta, Georgia, as follows:

Executive Mansion,
Washington, D. C.
September 19th, 1864.

Major General Sherman,

The State election of Indiana occurs on the 11th of October, and the loss of it to the friends of the Government would go far towards losing the whole Union cause. The bad effect upon the November election, and especially the giving the State Government to those who will oppose the war in every possible way, are too much to risk, if it can possibly be avoided. The draft proceeds, notwithstanding its strong tendency to lose us the State. Indiana is the only important State, voting in October, whose soldiers cannot vote in the field. Any thing you can safely do to let her soldiers, or any part of them, go home and vote at the State election, will be greatly in point. They need not remain for the Presidential election, but may return to you at once. This is, in no sense, an order, but is merely intended to impress you with the importance, to the army itself, of your doing all you safely can, yourself being the judge of what you can safely do.

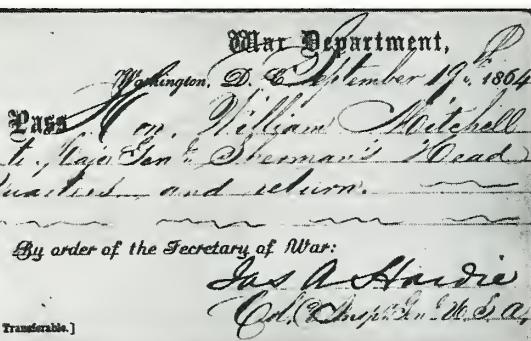
Yours truly

A. Lincoln

This letter appears to have been dictated by Lincoln, but is in the handwriting of his secretary, John Hay, or some other accomplished scribe. The words, "Yours truly," and the signature, "A. Lincoln," are in the handwriting of the President.

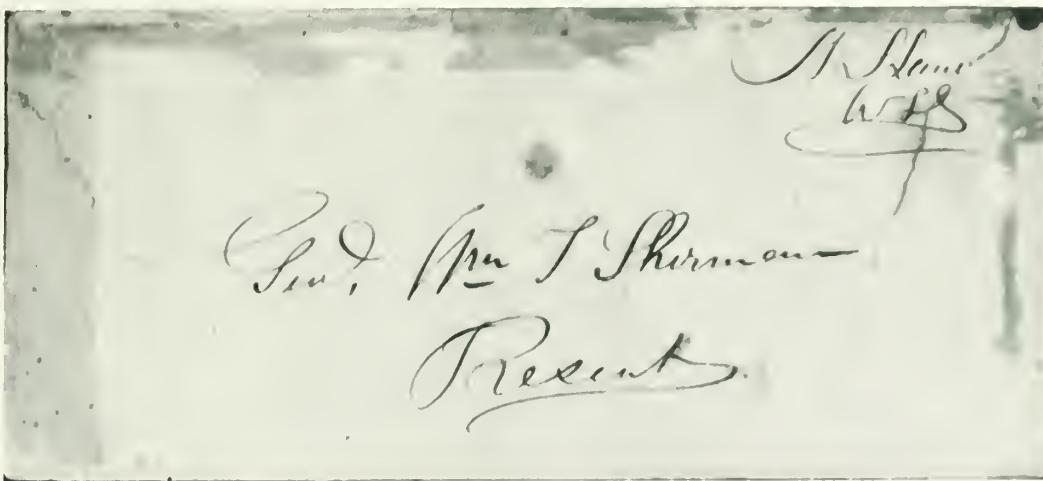
Lincoln's letter to Sherman was carried by William Mitchell, a former representative from Indiana (1861-1863) and president of the First National Bank of Kendallville, Indiana. He was accompanied by J. J. Brown of New Albany, Indiana, who in a letter addressed to John Mitchell dated March 15, 1888, stated that: "I accompanied your father in the trip from Washington to Shilo. Two others were appointed. None went to Sherman's Army but your father and myself."

The mention by Brown of Shilo is puzzling. E. B. "Pete" Long of The University of Wyoming, Laramie, made the following comment: "Shilo was often spelled 'Shilo' and there were a number of such named places, usually churches. I know of none in Georgia and the



From the Lincoln National Life Foundation

For information concerning Gen. James A. Hardie, see *Generals In Blue* by Ezra J. Warner, Louisiana State University Press, 1964, pages 204-205.

*From the Lincoln National Life Foundation*

The original envelope which contained Lincoln's letter to Sherman, September 19th, 1864. H. S. Lane, presumably attached to Sherman's headquarters, signed his name on the envelope, along with the General's initials, in acknowledgment of the receipt of the letter.

use of it by Brown mystifies me. It could hardly refer to Shiloh Church, Tennessee, near Pittsburg Landing."

In addition to owning the original Lincoln letter and envelope of September 19, 1864, the Foundation also has the War Department pass of the same date issued to "Hon. William Mitchell to Major Genl. Sherman's Headquarters and return." The pass (Not Transferable) and "By order of the Secretary of War" was signed by James A. Hardie, Col. and Inspt. Gen. U. S. A.

Sometime after the delivery of Lincoln's letter to Sherman, the following telegram was sent to the President by the courier:

Office U. S. Military Telegraph
War Department

The following Telegram received at Washington 11:45
a m Oct. 7, 1864

From Louisville
Pres. Lincoln

I have succeeded very well.
The skies are bright.

Wm. Mitchell

This telegram which is dated October 7, 1864, suggests that there must have been considerable delay in delivering Lincoln's letter of September 19, 1864.

Again on October 24, 1864, Mitchell communicated with the President in a letter in which, among other things, he mentioned his recent visit to Sherman's headquarters, "Having accomplished my mission and returned Home in time to vote at our State Election"

Sherman, undoubtedly, understood Lincoln's suggestions to be a command. However, few soldiers in the field were furloughed. Next, Morton importuned Stanton who through the surgeon general granted furloughs to such men as were able to travel to Indiana. Their transportation, both ways, was to be paid by the government. The soldiers sent home gathered at the polls on election day. After frantic efforts, some 9,000 voted, a number large enough to have a considerable bearing on the outcome of the election. Some Democrats charged that in selecting soldiers for furloughs only those who promised to vote for Lincoln and Morton were allowed to go home. Another aspect of Morton's political strategy was to allow no new Indiana troops to be sent to the field until after the state election.

According to William B. Hesseltine in his book, *Lincoln And The War Governors*, Alfred A. Knopf, 1948, "The Nineteenth Regiment of Vermont Volunteers voted in Indiana that day (October 11th), but many a Democrat found his vote challenged."

Some of the sick and wounded soldiers arrived only a few days before the election, while others arrived on election day. The voters gave the Republicans a twenty thousand majority (Lincoln would carry the state in November with about the same majority) with Morton leading the ticket in every county. The results were that Indiana had been saved to the Union cause and that

Lincoln would win in Indiana in the November Presidential election. The draft had not been postponed, and it had created less dissatisfaction than had been feared.

Having been re-elected on October 11th, Morton telegraphed Lincoln and Stanton on October 12th: "In consideration of the fact that nearly all of the Indiana sick & wounded soldiers furloughed from Hospitals under your late order did not reach their homes until within a few days past & many not until yesterday & the day before leaving them little or no time to see their friends & recuperation they so much need on account of long & arduous Journey they have performed I most earnestly ask that their furloughs be extended by a special order until after the Presidential Election say Nov (10) tenth. If this is done I feel confident hundreds of them will return to the front able for active duty. If sent on the fifteenth inst they will be worse off than ever For the best interests of the service and the sake of humanity I earnestly hope this request will be granted & the order telegraphed to me as soon as possible."

The following day, October 13th, Lincoln replied to Governor Morton: "In my letter borne by Mr. Mitchell to Gen. Sherman, I said that any soldiers he could spare for October need not to remain for November. I therefore can not press the General on this point. All that the Sec. of War and Gen. Sherman feel they can safely do, I however, shall be glad of.

"Bravo, for Indiana, and for yourself personally."

Morton replied to Lincoln's telegram which he received October 13th at 1:00 p. m. as follows: "I fear you misapprehend my dispatch of yesterday I only asked that the sick & wounded who are furloughed under Mr. Stanton's order to the Surgeon Genl be allowed to remain. Genl Sherman had nothing to do with sending them home & would not be strengthened any by their return now as they would all have to go into Hospitals again. It seems to me the order of extension asked for yesterday can be granted without consulting the Genl & without the least detriment, but rather benefit to the service Please let Mr. Stanton see this & for God's sake let the order be made at once."

At 5:00 P. M. (October 13th) Morton telegraphed Lincoln and Stanton again, this time injecting a political note in his plea: "It is my opinion that the vote of every soldiers (sic) in Indiana will be required to carry this state for Mr. Lincoln in November. The most of them are sick and wounded and in no condition to render service and it is better to let them remain while they are here.

"It is important that this be answered immediately."

If Lincoln replied to Morton's two telegrams, such replies are not now extant and no record of any kind of a reply has been recorded. However, Morton was able to persuade Stanton to extend the soldiers furloughs until after the November election.

In March, 1929, when the Lincoln National Life Foundation purchased Lincoln's original letter to Sherman (value based on the appraisal of The Smith Book Company of Cincinnati, Ohio) from Mrs. Louise F. E. Mitchell of Kendallville, there was included in the sale, besides the envelope and the pass, two letters written by J. J. Brown dated March 15, 1888, and March 21, 1888, relative to the original letter. Why Sherman did not retain Lincoln's letter for his own files is a mystery.

The Brown letters are addressed to William Mitchell's son, John.

The March 15, 1888, letter follows:

New Albany, Indiana
March 15, 1888

John Mitchell, Esq
Kendallville
My dear Sir:

Yours 13th inst received & in reply would say that I accompanied your father in the trip from Washington to Shilo. Two others were appointed. None went to Sherman's army but your father and myself. I shall be much pleased to have you send me Mr. Lincoln's letter to look at and which I will promptly return.

I hope I may sometime have the pleasure of meeting you as it would seem like renewing the acquaintance of your respected father, whose friendship I enjoyed very much.

Will you be at Chicago at the Convention in June? If so, and you send me your address, I will take pleasure in calling on you.

Very truly
J. J. Brown

The March 21, 1888 letter follows:

New Albany, Indiana
March 21, 1888

John Mitchell, Esq
Kendallville
My dear Sir:

Your esteemed favor 17th with Mr. Lincoln's letter duly received, and I assure you it has been a very great pleasure to me & some of my friends to peruse this paper and look upon that grand man's signature. I return the same herewith & sincerely trust it may reach you safely.

I am a constant reader of Hay & Nicolay in the Century and have been intensely interested. If I go to Chicago I will let you know as I shall be much pleased to make your acquaintance.

Again thanking you for your thoughtfulness in this matter

I am Very truly
J. J. Brown

Please sned (sic) me postal saying you received the letter, as I shall be anxious untill (sic) I know you have received it safely.

J. J. B.

What about the October state contests in Ohio and Pennsylvania? Perhaps Lincoln gave the best answer in a telegram to Lieut. Gen. Grant, on October 12, 1864: "Sec. of War not being in, I answer yours about election. Pennsylvania very close, and still in doubt on home vote. Ohio largely for us, with all the members of congress but two or three. Indiana largely for us. Governor, it is said by 15,000, and 8. of the eleven members of congress. Send us what you may know of your army vote."

Lincoln received a telegram from John W. Forney of Philadelphia (October 12th) after he had written Grant. "We will carry the state (Pennsylvania) in November high and dry by a large majority. Spirit of opposition 'dead broke.'"

The October election results revealed to astute politicians that, "Unless all human foresight fails, the election of Abraham Lincoln and Andrew Johnson is assured."

Editor's Note: For additional information concerning the October, 1864 elections and Lincoln's letter to Sherman, see *Lincoln Lore* Nos. 1136 and 1137. Also, see *Lincoln Lore* No. 1480, "Oliver P. Morton — Lincoln's Irritating Goad." Two books which were invaluable in the preparation of this article were Kenneth M. Stampp's *Indiana Politics During The Civil War*, Indiana Historical Bureau, 1949 and Emma Lou Thornbrough's *Indiana In The Civil War Era, 1850-1880*, Indiana Historical Bureau & Indiana Historical Society, 1965.

Monaghan No. 8

Some Lincoln publications elude collectors for years only to turn up in the most unexpected places. Such is the history of a copy of Monaghan No. 8, which was published in 1854 and was acquired by the Foundation last month.

The bibliographer listed the item as follows:

(Abraham Lincoln) Illinois House. (18th Assem. Canal Claims. Communication from the Governor, Transmitting the Report of the Commissioners appointed to investigate Canal Claims; also, the Attorneys' reports on same. (Letter of transmittal signed Aug. C. French)

Cover title. (1854?) 8 $\frac{3}{4}$ " x 5 $\frac{1}{4}$ "; 52 p. IH. Report of investigation by Commissioners Noah Johnson and Abraham Lincoln.

In the report of the commissioners (dated November 2, 1852), the statement is made that Noah Johnson of Mt. Vernon and A. Lincoln of Springfield would meet at Ottawa to take evidence of the claimants against the state, on account of the Illinois and Michigan Canal. The date of the meeting was December 3, 1852.

Lincoln Day By Day — A Chronology, Volume II: 1849-1860, indicates that the commissioners met as required. On December 3, in Ottawa, Lincoln and Johnson took the oath prescribed in an act of the legislature of June 22, 1852, whereby they were appointed commissioners to hear the canal claims. Edwin S. Leland, judge of the Ninth Circuit, administered the oath.

Lincoln and Johnson next selected R. E. Goodell to assist them as a clerk, and they rented the sheriff's office in which to conduct the hearings. The hearings continued throughout the remainder of the month, though not continuously, and the two commissioners found it necessary to make two trips to Chicago to take additional testimony.

On January 7, 1853, Lincoln and Johnson submitted the report of their investigation to the legislature. Lincoln also presented his expense account which was \$65. for travel and \$4. per day for 21 days service.

While the 52 page pamphlet is not listed as one of the "100 Scarce Lincoln Books," it has taken the Foundation forty-five years to acquire a copy.

Introducing The New Editor

This will be the concluding issue of *Lincoln Lore* edited by R. Gerald McMurtry who began the series with Number 1421 after the retirement of Dr. Louis A. Warren, in July, 1956. The new editor is Mark Neely, Jr., who will be appointed Director of the Lincoln Library-Museum of the Lincoln National Life Foundation.

Mr. Neely graduated *magna cum laude* from Yale in 1966 with a degree in American Studies and a student Western History Prize for his long essay on tactics, technology, and European influence on the United States Cavalry. In the fall of that year, he entered the Yale Graduate School to study American history. There his interest in Lincoln, slavery, the origins of the Whig and Republican parties, and secession was stimulated by courses in the history of the South and in nineteenth-century politics. As his early roots in the interdisciplinary approach of American Studies suggest, Mr. Neely was trained as an historian of ideas and, therefore, has special interests in Lincoln's political and religious ideas.

At present, Mr. Neely is completing his Ph. D. dissertation, "The Organic Theory of the State in American Political Thought, 1838-1918." Primarily a study of academic political thinkers, the thesis weighs the impact of the Civil War on American conceptions of nationhood. Abraham Lincoln's interpretation of the Civil War as well as the actual policies and practices of the Lincoln administration figure prominently in the background of the thesis.

Last year, Mr. Neely taught American history at Iowa State University in Ames, Iowa.

Visit the Lincoln Library-Museum

With a new flexible work schedule and a four and one-half day work week for home office employees, the Lincoln Library-Museum will be open Monday through Thursday from 8:00 A.M. to 4:30 P.M. and on Friday from 8:00 A.M. to 12:30 P.M.



Lincoln Lore

February, 1974

Bulletin of The Lincoln National Life Foundation...Mark E. Neely, Jr., Editor. Published each month by The Lincoln National Life Insurance Company, Fort Wayne, Indiana 46801.

Number 1632

TREASON IN INDIANA

A Review Essay

Late at night on October 9, 1862, Dr. Theodore Horton of Wells County, Indiana was called to a carriage which waited in front of his house by a man who was a perfect stranger. As a rural physician, Dr. Horton was used to travelling long distances with strangers to take care of some medical emergency in the county. After they had covered some distance on the road, the stranger arrested the doctor and took him to the Federal Building in Indianapolis. After five weeks' confinement, the authorities released the doctor without granting him a hearing or telling him the specific offense for which he had been arrested.

Not long before the night of his arrest, Dr. Horton had attended a political mass meeting addressed by a Republican candidate for the state legislature and by an army recruiting officer. The officer had failed in his request for volunteers for the army, and the crowd had urged Dr. Horton to speak. Witnesses agreed that the doctor linked the recruiting failure to the fact that the Civil War had been converted into a crusade to eliminate slavery and states' rights. Republican witnesses claimed that he urged this as justification for refusing to enlist; Democratic witnesses claimed the doctor merely explained the reason for the recruiting officer's failure. Whatever the case, clearly the doctor's arrest stemmed from his behavior at that political meeting.

Dr. Horton's arrest is one of many incidents recounted in G. R. Tredway's new book, *Democratic Opposition to the Lincoln Administration in Indiana* ([Indianapolis]: Indiana Historical Bureau, 1973). Tredway casts his nets broadly, but in general it can be said he means "opposition" with a vengeance. He does not recount the political opposition of the Democratic legislature in Indiana to the Republican administration in the State or in Washington. Rather his book focuses on the formation of various secret societies embracing prominent Democrats in their membership, their involvement with a "Northwest Conspiracy" to aid the Confederacy,

and the trials for treason which resulted from the exposure of the conspiracy in 1864. To the degree that other instances like the Horton arrest are covered in the book, they are present as background and setting for the formation of the secret societies, the Northwest Conspiracy, and the treason trials. In short, Tredway's book belongs on the shelf with the works of Frank Klement on Copperheads in the Midwest; that, and not Indiana politics in general or Indiana's direct relationship with the Lincoln administration, is the subject of the book.

The Copperheads, steeped in the bitterest controversy of their own era, were bound for controversial treatment at the hands of historians. In general, studies since the 1940's (when "fifth column" movements seemed to be the cause of early fascist successes) have attempted to exonerate the Democratic party from the identification with Copperheadism which Republican politicians of the Civil

War era attempted to establish and succeeded in establishing in the history books for many years thereafter. Most historians agree that the Civil War Democratic party constituted by and large a loyal opposition, although there is little agreement beyond that basic point on what their grounds of opposition were. The questions about Copperheads that remain seem to be three: (1) How large a following did the Copperheads, defined loosely as "peace Democrats," have in the Democratic party? (2) Were the intentions of even the Copperhead or peace-Democrat faction treasonable? (3) Why did they have those intentions to oppose the war? Were they old-fashioned agrarians who harked back to the Jeffersonian and Jacksonian opposition to banks, internal improvements or railroads, and tariffs (and anticipated late nineteenth-century agrarian opposition to railroads by means of Granger laws)? Were they traditional believers in Jeffersonian versions of American constitutional liberty who could not adapt to the curtailments of civil liberties in the North that came with the military campaigns against the South? Were they racists.



From the Lincoln National Life Foundation

The above portraits formed the frontispiece of Benj. Pitman, ed., *The Trials for Treason at Indianapolis, Disclosing the Plans for Establishing a North-Western Confederacy* (Cincinnati: Moore, Wilstach & Baldwin, 1865).

pure and simple, driven to opposition by the Emancipation Proclamation and Lincoln's gradual approach to radical policies on the Negro? Were they men of Southern origins moved North only in body but not in spirit?

Only two of the questions have been answered to anyone's satisfaction and one of the two only in part. As Richard O. Curry points out in his summary review of literature on the question, "The Union As It Was: A Critique of Recent Interpretations of the 'Copperheads,'" *Civil War History*, XIII (March, 1967), 25-39, it is clear today as never before that Copperheads were not Grangers-in-the-making. For even if the Copperheads were doctrinaire agrarians who feared the commercial domination of the Northeast, the so-called Granger laws, aimed at the fingers of eastern commercial domination, the railroads, were the product of commercial and small-town animosity, not of farmers' animosity. Whether the Copperheads were agrarians or not remains a moot question, but if they were, they looked backward to the era of Jefferson and Jackson rather than forward to the conflicts of the Gilded Age.

Moreover, it seems clear that Copperheads were not necessarily men of Southern origins living in the southern counties of midwestern states. Curry summarizes studies of Iowa and Ohio that found Copperheads in regions that voted heavily Democratic before the war, whether in the northern or southern sections of the states. Kenneth Stampp's *Indiana Politics During the Civil War* (Indianapolis: Indiana Historical Bureau, 1949) argues that dependence of the southern counties on river trade through the Ohio-Mississippi Rivers system made them vigorous supporters of the war effort to get the Mississippi back in the Union. Tredway's book confirms this incidentally by citing the south-central (Sullivan, Greene, Monroe, and Brown, for example) rather than southern counties as the areas where murderers of draft enlistment officers and general violent conflicts between Democrats and Republicans frequently took place.

Tredway's book does not really answer the third question, or rather, it answers the question by saying Copperheads were motivated by all four considerations, economic, ideological, geographical, and racist. He does not concern himself with weighing each strand to find the key contributing factor. However, one of the better sections of the book is a biographical analysis of Copperhead leadership in Indiana, and this section perhaps suggests some conclusions that Tredway does not draw himself. In the chapter on "State Leaders of the Secret Orders," Tredway brings together biographical sketches of William A. Bowles of French Lick, Harrison D. Dodd of Indianapolis, Horace Heffren of Salem, Andrew Humphreys of rural Greene County, Lambdin P. Milligan of Huntington, and John C. Walker of Shelbyville. At least one thing united all these men: the federal authorities in 1864 tried to arrest them and try them for treason.

Little else seems to tie them together in any discernible political or social pattern. They were not all men of Southern origins; Heffren came from New York. They did not live in the south or south-central sections of the State; Milligan was from northern Indiana. If they were agrarians, it was a matter of ideology and not of occupation. Bowles was a physician and Heffren a schoolteacher and lawyer. All were Democrats in 1860, apparently, but Dodd had been a Whig, a Know Nothing, and a Republican! Even as Democrats, they came from two different factions of the party, the Douglas and the Buchanan (in Indiana, Bright) faction.

Ideological motivations provide more interesting grounds for speculation if only because they are less clearly defined. However, such motivations had little to do with Walker, whose opposition stemmed from a personal feud with Indiana Governor Oliver P. Morton. Walker supported the war vigorously enough to command an Indiana regiment for almost a year, but fell out with Morton over politically-motivated appointments to his command. Still, he may have been ripe for feuding with Morton because of his pre-war identification with the (Douglas wing of the) Democratic party. Walker came to denounce Republican "tyranny" and "despotism [as good] as that of France or of Austria." He also denounced Republican intentions to subjugate the states and meddle with slavery.

Bowles also attacked the Republicans' "perverted construction of the Constitution" and defended slavery. He added economic considerations: Indiana was tied by commerce to the South and, if left alone with New England in the North, would simply become the "hughers of wood and drawers of water" for the Northeast. Dodd feared the development by Republicans of a "centralized power sufficient to reduce the States to territories" and denounced military interference with civil elections in Kentucky. Andrew Humphreys always warned of dangers to free speech and freedom of the press and urged the people "to stand up for their rights." Milligan began denouncing the "tyranny and usurpations" of the President as early as August, 1861, claiming the war was "illegally brought on by an usurper." The Union had to be saved by and for a "strict construction of the Constitution . . . and the faithful observation of the rights of every section of the Union." By 1864, Milligan was claiming that only a reunion of West and South could save Indiana from "pecuniary vassalage to the commercial and manufacturing interests of the East." He also prided himself upon his soundness on what he called the "Nigger question."

Tredway draws no particular conclusions, and perhaps he is right not to. These men represented, in Tredway's estimation, the party's "lunatic fringe." When Dodd mentioned to Joseph J. Bingham, chairman of the Democratic State Central Committee, a plan to release Confederate prisoners near Indianapolis and precipitate a revolution, Bingham was astonished, refused the request, and called a meeting of party leaders to convince him to drop his plans. Even so, Bingham apparently did not advise federal authorities; the Indiana Democratic party certainly tolerated such bizarre ideas. Moreover, even the lunatic fringe of a party may carry its underlying principles to their logical, if impolitic, extremes. The Copperheads' political opinions seem worth some analysis.

At first blush, one feels inclined to agree with Richard O. Curry that these Copperheads seem motivated by an old-fashioned ideology of strict constructionist constitutionalism. Their economic program seems opportunistic at most. Only Bowles and Milligan seem to have mentioned economic questions at all, and Milligan apparently came to stress the theme in 1864; in 1861, constitutional questions preoccupied him, and they still interested him at the later date. Bowles's mention of commerce was incidental to his stress on other themes. Walker had personal business interests of his own, interests of the internal improvement variety, river channelization and swamp reclamation, not agricultural interests.

Yet the constitutional theme fails to yield a consistent pattern as well. Horace Heffren, as a member of the Indiana legislature in 1861, argued that wars naturally abridged the liberties of the people and that the government's war powers must be broad. Eventually, he would denounce Lincoln for persistent violation of the Constitution and for dictatorial tendencies — but only after the issuance of the Emancipation Proclamation.

In fact, none of the men seems to have supported the war after September of 1862, though some supported it before then. Both Heffren and Walker were out of the military service by then and did not return. Humphreys surfaced as an opposition leader only in the spring of 1863; Dodd's activities apparently began to increase significantly about the same time. Bowles and Milligan opposed the war from the start, well before it could realistically be construed as a crusade against slavery, denouncing broad construction of the Constitution for the war effort. In both cases, however, strict constructionism was coupled with concern about slavery and might be interpreted as high-toned and statesmanlike codewords for racism. Bowles had brought some of his wife's slaves to Indiana in violation of the state constitution, but he had escaped conviction because of faulty indictments. During the secession crisis of 1861, he defied opponents to prove that slavery was not "legally and morally right." Milligan denounced the war as illegal in 1861, but he also denounced it as a war "for the furtherance of the ends of a foul, fanatical, abolition party."

There was no constitutional nicety involved in the Vincennes *Western Sun*'s denunciation of Lincoln for dismissing McClellan in November, 1862: "We hope he will arrest Lincoln, Halleck, Stanton, and Company — place them in prison — disperse the present abolition



Photograph Courtesy of the Fort Wayne Public Library, Fort Wayne, Indiana.

The above map of Indiana appeared in [Alfred T. Andreas], *Illustrated Historical Atlas of the State of Indiana* (Chicago: Baskin, Forester & Co., [1876]). To note the geographical location of the home counties of the men mentioned in this *Lincoln Lore* is to see that sectional interpretations of the Copperhead movement are too simple. The configuration of the counties, incidentally, was the same in Civil War times except that Jasper included the area of Newton.

Congress — call a convention of the states (excluding New England) to fix a basis for settlement." One cannot help but wonder whether constitutionalism most often provided a high-sounding code for resistance to what was really feared, emancipation. In Tredway's sketches of Copperhead leaders one can find instances of support for broad war powers, only a few instances of economic complaint about banks, tariffs, or railroads, but not a single claim of even moderate anti-slavery sentiment. Slavery attitude and not constitutionalism or economic interest seems to have been the commonest denominator.

Tredway begins his book by emphasizing policy towards Negroes as the most important of the various factors contributing to opposition to the Lincoln administration, but he loses interest along the way, choosing not to weigh the contributing factors in his leadership analysis which appears seven chapters later. The result is to give the impression that constitutionalism was more important than it really was and, therefore, that Democratic opposition was a response to Republican moves on all fronts, constitutional, economic, and racial. In short, Tredway believes that Democratic opposition was largely a response to Republican aggression. In asserting this, he documents what Frank Klement argued thirteen years ago in *The Copperheads in the Middle West*: that Democratic secret societies were mutual protection societies organized to counter Republican secret societies and loyal leagues, and that Democrats at first denounced all secret societies (a legacy of their anti-Know Nothing stance in the fifties perhaps).

In fact, Tredway tries to write two books at once. The first is a sort of social history of Indiana during the Civil War, focusing on violent partisan conflicts as reported in county newspapers. This is a patchwork of vignettes of soldiers run amok, of intimidation of the press and of public speakers, of draft resistance, and of calls for troops to put down expected violence. The second is a study of the Indiana treason trials. Both are worthwhile subjects, but they each deserve undivided attention. By splitting his focus, he obscures the issues and fails to document his conclusions effectively.

The first topic demands exclusive focus because the events are difficult to evaluate. One example is the death of Lewis Prosser. For all events of partisan violence there are at least two versions; in Prosser's case the reports differ sharply. Here is the Republican version as summarized by Tredway:

... Lewis Prosser, former state legislator and a leader of the Brown County Democracy, appeared at the meeting [at Bean Blossom, April 18, 1863] with a companion named William Snyder armed to the teeth and intent upon breaking it up. Captain Ambrose D. Cunning and four soldiers of the 70th Indiana were present, however, and thwarted Prosser's plan. A wild gun battle broke out in the crowded meeting hall when Prosser shot and killed a sergeant who was merely remonstrating with him. Prosser was put out of action by a bullet from the revolver of Captain Cunning and Snyder was overpowered and disarmed.

And here is the Democratic version:

Prosser had attended in response to "repeated and urgent solicitations" by Republican leaders to engage in "public discussion" with some of them. He and Snyder had been squirrel hunting and arrived still carrying their rifles. They disapproved of the speaking arrangements, however, and proposed to withdraw, but the soldiers attempted to force them to remain. A sergeant wrestled with Prosser and forcibly took his rifle, whereupon Prosser drew a revolver and killed his assailant.

To keep a long book from being even longer, Tredway concludes that the Democratic version is nearer the truth largely because the results of a bipartisan investigation initiated by Governor Morton were never made public. Tredway might at least have summarized the competing case. Both sides agree that Prosser came armed, that he brought an uninvited armed companion with him, and that Prosser fired first. Whatever the case, the reader will be indebted to Tredway for describing a large number of similarly interesting but little-known events.

Tredway's answer to the first question about the Copperheads (how large a group were they?) is that they were a small group that grew larger as the Lincoln administration's policies in regard to civil liberties drove

more and more moderate Democrats into agreement and association with the lunatic fringe. His answer to the second question concerning the nature of their platform is a departure from Klement, Curry, and other writers who have stressed the loyalty of the opposition in the Civil War. Tredway believes there was a Northwest Conspiracy with treasonable intentions, but he retains the flavor of Klement's work by saying that it could have come to fruition only if defensive, that is, only if the Lincoln administration had used troops at the polls in Indiana in the same way it did in border slave states like Kentucky. Tredway's proof of the latter point must rest on two things: (1) analysis of the plans of the leaders and (2) analysis of discontent in the State, showing that it was growing in 1864. The first he provides; the second, however, he fails to provide because he abandons his county-level social history for a close treatment of the treason trials and the events leading up to them.

This is not to say that the second book Tredway attempts to write is without its virtues also. Chief among them is a detailed analysis of the evidence from the treason trials, relying principally upon manuscript sources rather than the conventional source, Benn Pitman, ed., *The Trials for Treason at Indianapolis, Disclosing the Plans for Establishing a North Western Confederacy* (Cincinnati: Moore, Wilstach & Baldwin, 1865). Pitman, says Tredway, was not so much biased in his reporting as pressed for space, but the result was nevertheless distortion of the record. For example, summaries of testimony read like a narrative of the witnesses, but the testimony was actually elicited by unreported questions from the prosecutor. It is sometimes illuminating to know what questions witnesses were answering.

To some degree, Tredway's observations on the trial do not go much beyond conventional folk wisdom. We all know the old saw that military justice is to justice what military music is to music. In other words, the treason trial could not live up to high standards of civil justice simply because it was trial by military commission. Nonetheless, the specific workings of such a trial are not common knowledge and Tredway's description is interesting:

A military commission consisted of a board of army officers headed by a president which heard evidence and passed sentence, with two-thirds majority required for death. The commission also determined procedure and ruled on the admissibility of evidence. The president presided only nominally, and a trial was really controlled by the judge advocate, whose powers combined those of a prosecuting attorney and a presiding judge in the civil judiciary. Since the president of the commission and its members usually knew little of the law, they were subject to manipulation by the judge advocate.

Even more interesting is Tredway's analysis of the actual testimony presented within the context of this trial by military commission. Here the reader will find the all-too-familiar trappings of state political trials: *agents provocateurs*, spies who were the steadiest attendants at secret meetings, and cases of near entrapment (in some cases, spies seem to have established the very military organizations which defendants got into trouble for joining).

Ironically, however, to undermine the proofs of guilt at the trial and to ridicule the extent of the supposed conspiracy is to undermine the first half of Tredway's book. The effect is to document what Klement, Curry, and Stampf contended long ago, that the opposition was loyal and that conspiracies were largely the figments of Republican imaginations or even the constructs of Republican politicians in search of an issue to smear their honest adversaries. Not only does Tredway try to combine two books in one, but they are also books essentially at cross purposes with each other.

It is little wonder, though, that Tredway's treatment of Copperheads in Indiana is confused, for confusion reigns supreme throughout the literature on the question. Take, for example, Curry's historiographical summary of recent literature on the Copperheads. It is written to systematize and bring some clarity to the confusing mass of books and articles written about Copperheads in different states. These studies are written from perspectives

(To be Continued)



Lincoln Lore

March, 1974

Bulletin of The Lincoln National Life Foundation...Mark E. Neely, Jr., Editor, Published each month by The Lincoln National Life Insurance Company, Fort Wayne, Indiana 46801.

Number 1632

TREASON IN INDIANA *A Review Essay (Cont.)*

so different that some picture Copperheads as traitors on the brink of pulling the rug from under the Union, others as harmless lunatics on the fringe, and others as misunderstood victims of Republican oppression and propaganda. Instead of clarifying, Curry participates in the confusion which has dogged historians of the Copperheads from the start. The problem is one of definition. Are Copperheads Democrats, peace Democrats, or traitors?

Even Curry is not sure. On the very first page of his article he posits Copperheads and Republican Radicals as polar opposites, blaming the Radicals for interpreting the Copperheads' political dislike of emancipation, infringements of civil liberties, and the draft as "disloyal" and "treasonable." Here "Copperheads" clearly connotes "most Democrats" — only seen unfairly by the anti-slavery faction of the Republican party. Yet most Republicans and not just radicals were capable of seeing Copperheads in large numbers. The case of Richard W. Thompson provides an excellent example. Thompson was a conservative Whig turned Constitutional Union man in 1860. During the secession crisis, he himself envisioned a Northwest Confederacy, or rather a middle nation stretching from Virginia to California but excluding the South and New England. In the Thompson Manuscripts in the collections of the Lincoln Library and Museum is a letter written from Thompson to Governor John Letcher of Virginia on December 22, 1860, which begins this way:

Such is the fearful posture of our public affairs that we are all trying to look into the future, to see in what way the in-



From the Indiana Division, Indiana State Library, Indianapolis

Oliver P. Morton

The villain of Henry Adams's novel *Democracy* (1880) is Silas P. Ratcliffe, "the Prairie Giant of Peoria, the Favorite Son of Illinois." The novel's plot centers on the gradual discovery of the corrupt practices Ratcliffe uses to gain his politically powerful position as a strong contender for the presidential nomination. Like all the characters in the book, Ratcliffe is a blend of traits taken from the Washington life Adams had viewed at first hand. One of the models for Ratcliffe was certainly James G. Blaine, but another one may well have been Oliver P. Morton, a United States Senator by the time Adams was observing the Washington scene. One of the first ambiguous clues to Ratcliffe's character is the revelation that as wartime governor of Illinois, he had falsified election returns in order to save his state and ultimately the nation from being won "by the peace party." The event may well have been drawn from Morton's reputedly high-handed methods of saving Indiana from the Democrats. In actual fact, Tredway's book reveals that Morton frequently acted the part of a moderate, refusing to send troops to quash insurrections imagined by hysterical provost marshals and local Republican politicians. Only in the case of the election year of 1864 does Morton appear as the prime mover in attempts to exacerbate the Copperhead problem.

terest of the several sections is to be preserved and advanced. It will not do to let the material prosperity of the Country be all sacrificed and destroyed by political or sectional broils, — and whether the Union shall remain intact or be finally & entirely dissolved, every reflecting man must see that the central belt of States, from the Atlantic to the Pacific, must always share a common destiny. In the event of dissolution they would have no difficulty in forming a satisfactory union, — leaving the extreme north to indulge its vagaries alone, and the extreme South to develop its capacity and resources in its own way.

When the Emancipation Proclamation was issued, Thompson remained true to his lifelong acquiescence in the existence of slavery and drafted a long protest saying that it was constitutionally unjust and racially dangerous. This petition is also among the Thompson manuscripts at the Lincoln Library and Museum; the following passages are representative of Thompson's sentiments expressed in the petition of January 26, 1863:

We have still a nation to be preserved, — the constitution yet survives the shock of battle, — and we should prove recreant to the obligations which rest upon us as citizens of a government, hitherto the happiest in the world, were we to omit to do, whatever we may rightfully do, to perpetuate it for our children. . . . The gallant and noble-hearted soldiers who compose this army, have obeyed your call with unparalleled alacrity, and have willingly exchanged the comforts of home for the

hardships of the camp and the hazards of the battlefield, that they may fight for the Constitution. . . . Such an army may be trusted . . . so long as this great object is kept steadily before it. What it would become, if another object were substituted for this, infinite wisdom can alone foresee. . . . You have, however, . . . thought it to be your duty to take a still further step — beyond the law — and to issue a proclamation giving freedom to the slave property of every loyal man, woman, child and lunatic, who is so unfortunate as to reside within the limits you have defined. By this act, . . . you propose that loyal citizens shall be punished by the forfeiture of their property, when, by the law, they are held guiltless of any offence against the Government. . . . the question whether slavery advances or retards the prosperity of a State, or whether the slave of a loyal man shall still remain in bondage, or be made free, must be left where the Constitution leaves them, — to the States themselves . . .

Here was constitutional delicacy worthy of a Copperhead. In the petition Thompson also answered abolitionists' criticism with the Copperheads' stock argument based in racial fear:

[Mr. Seward] furnished . . . a complete answer to all their [the abolitionists'] clamorous denunciation of your avowed policy, and to all their vaporizing about an emancipation crusade. He said . . . "Does France or Great Britain want to see a social revolution, with all its horrors, like the slave revolution in St. Domingo? Are these powers sure that the country or the world is ripe for such a revolution, so that it may be certainly successful? What, if inaugurating such a revolution, slavery, protesting against its ferocity and inhumanity, should prove the victor?"

Yet Richard Thompson became a Republican, possibly as early as 1860. When the war came, he served first as commandant of Camp Vigo (later named Camp Dick Thompson) in Vigo County, recruiting and organizing Indiana soldiers to put down the rebellion and, eventually, to free the slaves. In 1863, Lincoln appointed him provost marshal of the Seventh Congressional District in Indiana. His recruiting and organizing activities continued, but he also began to engage in what might be called matters of internal security. He reported disturbances like the murder of a draft enrollment officer, blaming it on a group of some 1,200-1,500 potentially rebellious citizens. He reported rumors that arms were being shipped into the district at an alarming rate, and he urged inspections of packages to detect such shipments. He even employed a spy who signed his letters "H." to report to him regularly on the activities of potentially disloyal local groups. In short, Thompson believed in and reported to state officials a sizeable Cop-

perhead menace. His suspicions may have been paranoid, but they were not, at least, the products of a Radical imagination. Nor would private warnings and the clandestine employment of spies seem to be necessary simply to fabricate a Copperhead menace for political ends; that could be accomplished without any knowledge, and the noisier the accomplishment the better.

Most often, Curry seems to mean by "Copperhead" not most Democrats but the conservative Democratic faction. Indeed, the upshot of most revisionist writing about the Copperheads is to show that very few, if any, Democrats were Copperheads, if by that term one means treasonous opponents of the war. Curry refers to revisionist writings about "the aims and objectives of conservative northern Democrats" which dispute "the Copperhead stereotype." Three pages further on, he refers to the "Peace Democrats, a label attached to those Copperheads unrealistic enough to believe the Union could be restored if only North and South could be persuaded to come together at the conference table." Yet Curry quotes without comment Robert Rutland's remark that "the hard core of the Copperhead movement was located . . . in the areas voting Democratic in pre-war Iowa" as though it said the same thing of Iowa that Eugene Roseboom did of Ohio when he said that "the Peace Democrats of Ohio were the old-line, hard-shell Democrats." Is a Copperhead by definition a Peace Democrat or are the Peace Democrats only the "unrealistic" faction of the Copperheads? It is hard to tell from Curry's article. The confusion is serious. When Curry says, "Kenneth Stampp goes one step further by arguing that Hoosiers living in the southern part of the state, because of their dependence upon the river trade, had more to fear economically from a successful rebellion than people in any other section," what does it imply? Does it mean there were no Copperheads in southern Indiana because everyone supported the war from fear of disruption of the river trade? Or does it mean the Copperheads in southern Indiana supported the war? If the latter, how does one tell a Copperhead from a War Democrat?

It is hard to compare studies of Copperheads because it so often boils down to comparing apples and oranges. Some are studying peace Democrats, some are studying Democrats in general, and some seem to be studying conservative Democrats who like the war but are not War Democrats, whatever that is. Among those studying peace Democrats, some are studying people who wanted reunion but thought an armistice would bring it about, and some are studying people who wanted peace on any terms. The result in historiography is that we know little of the Democratic party in general — even of its 1864 presidential candidate's political views — because historians so often focus on treason trials when they start out to find out what exactly Democrats be-



From the Lincoln National Life Foundation

Richard Wigginton Thompson (1809-1900) is famed for his nationalism. Like his exact contemporary Abraham Lincoln, Thompson was a Whig until he perceived that the party was dead. Thompson's perception of the party's demise came in 1852 (much earlier than Lincoln's), and thereafter their ways parted for a while. Thompson became active in Indiana's Know Nothing movement, remained in that movement after most Know Nothings deserted to the Republicans, and became a member of the Constitutional Union party. Thompson thus avoided joining the Republican party (which he thought was a sectional party) until the secession crisis; even after joining the Republicans, he remained critical of their policies on race and worked mainly to restore the Union. Despite the conservative love of the Union seemingly exemplified in this superficial capsule of Thompson's political career, the actual limits of his nationalism are discussed in this *Lincoln Lore* and reveal further the complexities of evaluating his enemies in the Civil War, the Copperheads.

lieved and did from 1861 till 1865.

Curry's article and most of the works attempting to exonerate the Copperheads mesh perfectly with the work of revisionists of the history of pre-Civil War America (like Beveridge, Milton, and even Robert Johansen). William Dusinberre describes this school of thought accurately in a little-known book entitled *Civil War Issues in Philadelphia, 1856-1865* (Philadelphia: University of Pennsylvania Press, 1965):

A revisionist interpretation stresses the ill consequences of the abolitionist and radical Republican agitation against slavery. According to this view, Northern radicals (together with their counterparts, the Southern "fire-eaters") provoked an unnecessary war by arousing popular emotions about issues which, rationally considered, were of little importance. In the wartime North the most noteworthy political disputes took place, not between Democrats and Republicans, but between disruptive radicals and sober conservatives within the Republican Party. Conservative Republicans, it is implied, had much in common with the great bulk of the Democratic Party, which loyally supported the war; "Peace Democrats" were of comparatively little significance.

Thus Dusinberre explains the spirit of much of the revisionist work on Copperheads and, in particular, Curry's suggestion that Copperheads were the constructs (real or imagined) of Republican Radicals. Dusinberre himself holds that there seem to be very sharp contrasts between Republicans and Democrats, and the difference between the factions within the two parties may not be as sharp.

Analysis of Curry's confusion is a round-about way of pointing up the most misleading and glaringly inaccurate part of Tredway's book, the title. Calling what he studies the "Democratic" opposition to the Lincoln administration caused severe disappointment for this reader. I expected a study of the speeches of Daniel Voorhees and Thomas Hendricks or of the voting records of Democrats in the Indiana legislature or of the voting records of Indiana's Democratic representatives in Washington. Such a study was needed before Tredway's book, and it still is. The Democratic party during the Civil War remains the dark continent of American history, shrouded in mystery, misconception, and sensational rumor. Tredway began his book in a way that would have been a valuable corrective to Curry's error, documenting profound differences between Republicans and Democrats. But he ended the book as a captive of the old-fashioned view, minimizing the seriousness of the Indiana Copperheads' intentions and strength.

The title is doubly disappointing because of its reference to the "Lincoln Administration." Abraham Lincoln's relationship to the events in the book is sketchy, but he gets the blame for everything Tredway hates. It is an avowedly anti-Lincoln book. Tredway announces in the "Introduction" his intention to "pursue what may be described as a critical approach to the administration of Abraham Lincoln and its policies." Yet it is a study of resistance to Oliver Morton, to various Union military commanders in Indiana, and even to draft enrollment officers. Some were Lincoln appointees, and some were not. Morton, certainly, was no appointee; he was the governor elected by the people of Indiana. Besides, is every last mail-carrier, even in the days before civil service reform, a member of the "administration"? Nonetheless, by the end of the book, Tredway comments on the "distinct streak of ruthlessness in the Civil War President" and says "the true Lincoln nobody knows" was "the man of blood and iron."

Tredway's documentation of these charges depends on two critical events, one of which did not even occur in Indiana, federal interference with elections in Kentucky, and Lincoln's aid in Morton's scheme to arrest the alleged traitors. If the first event is so important for Tredway's book, his reference to "Indiana" in the title misleads once again, though he does make a good point that awareness of events in neighboring Kentucky alarmed Democrats in Indiana. It should be added that Tredway relies heavily for his account of Kentucky events on the work of E. Merton Coulter, a notoriously pro-Southern source.

Lincoln's help to Morton seems the most important, if for no other reason than that it links Lincoln directly to the events in Indiana, the avowed subject of the book. Moreover, Lincoln's aid seems to have escaped comment by previous writers. During the summer of 1864, Governor Oliver P. Morton and federal authorities represented primarily by General Henry B. Carrington in Indianapolis were contemplating the arrests of some of the alleged leaders of the Northwest Conspiracy. The major Republican newspaper in Indiana urged hanging the men, but it urged they get that sentence by regular process in civil courts. General Carrington, a former abolitionist and associate of Salmon P. Chase noted today primarily for his ruthless suppression of domestic foes, also wanted them tried in ordinary civil courts and wanted only a few select leaders to be arrested. Governor Morton, on the other hand, was an elected official. Feeling the pressure of the coming autumn elections, he wanted the alleged traitors arrested in August; it was "essential to the national cause in the coming elections." Moreover, Morton wanted them to be tried by military commission. Tredway relates what ensued (the chronology is a bit loose):

General Heintzelman, commander of the Northern Department, shared Carrington's view that the exposures and arrests of August and September had achieved the necessary political effect and refused to sanction Morton's proposal. The governor then went to the President, who had no inhibitions. Lincoln organized the District of Indiana separately from the Northern Department so as to by-pass Heintzelman and replaced Carrington with General Alvin P. Hovey, who had no compunctions about military arrests and trials. Hovey assumed command on August 25, [Bowles and I'odd were arrested in September] and for good measure Heintzelman was superseded by General Joseph Hooker on October 1. A new wave of arrests began on October 5 and added the names of Bingham, Heffren, Humphreys, and Milligan to the list of prominent prisoners.

Tredway's account of the incident is an improvement upon Stampf's in that Tredway makes explicit who accomplished the shake-up in Indiana's federal high command. Stampf implies that it was Morton but does not say what authorities Morton had to convince:

. . . Morton feared delay and frankly asserted that an immediate trial was "essential to the success of the National cause in the autumn elections." Hence he quickly obtained an order for Carrington's removal. On August 25 the Governor secured the appointment of Gen. Alvin P. Hovey, a political general from Indiana who was thoroughly in sympathy with his course.

But from whom, one wonders, Tredway says it was from Lincoln, but his source is apparently the same as Stampf's, the Carrington Papers. Stampf had no apparent motive to keep Lincoln's connection silent; his book, after all, was written to exonerate Indiana Democrats from charges of Copperheadism or disloyalty. Tredway cites no source in any Lincoln collection nor any evidence at all that Lincoln changed officers to satisfy Morton. Hovey's instructions, which authorized him, according to Tredway, "to make military arrests, to organize military courts and employ them to try citizens, and to carry their sentences into effect," came from the Assistant Adjutant General. To a man uninformed about the situation, Hovey might have looked more lenient than Carrington, for Hovey was an Indiana native and a former Democrat. To carry the great weight of justifying the title of the book and the book's persistent animus against Lincoln, the event needs more direct evidence and more specific documentation.

In the last analysis, Tredway's conclusions are unconvincing as well as mutually contradictory. His use of evidence is clumsy. However, the evidence itself is interesting. The social history from county newspapers, the examination of the testimony from the treason trials, and the sketches of the defendants in those trials make interesting reading. The book offers little or nothing in the way of quantitative evidence, but it is the product of much research in manuscript collections and newspapers. Tredway's book will interest the reader, but I doubt that it will convince him.

The Impeachment of Andrew Johnson: Recent Articles

Michael Les Benedict, the author of the book on the impeachment and trial of Andrew Johnson reviewed in the *Lincoln Lore* for November, 1973, published "A New Look at the Impeachment of Andrew Johnson" in the *Political Science Quarterly* for September, 1973. The article discusses only the impeachment (not the trial) and is written more for the student of law or government interested in the event as a precedent than for the student of Reconstruction history.

Stanley I. Kutler, himself the author of a book on *Judicial Power and Reconstruction Politics* (Chicago: University of Chicago Press, 1968), reviews Benedict's book in the issue of *Reviews in American History* for December, 1973. Kutler uses Benedict's book to counter the argument of Raoul Berger's *Impeachment: The Constitutional Problems* (Cambridge: Harvard University Press, 1973). It is Berger's contention that impeachment should be subject to judicial review. Berger, the lawyer, has more faith in judges than Benedict and Kutler, the historians. Berger's distrust of legislators is based on the old-fashioned view of Andrew Johnson's impeachment as the result of political vindictiveness. Yet Berger's own book argues that impeachment need not be confined to cases of indictable criminal action. He fails to make the logical leap that Benedict did. Reasoning that the legislators did not ignore constitutional re-

straint, Benedict could reevaluate the whole story of Johnson's impeachment.

The Congressional elections of 1866 and 1867 figure prominently in any estimate of Reconstruction politics and Andrew Johnson's presidency. Benedict stressed the election of 1867 in his book. Lawrence N. Powell gives a refreshing look at the "Rejected Republican Incumbents in the 1866 Congressional Nominating Conventions" in the September, 1973 issue of *Civil War History*. Powell shows that traditional election practices such as the rotation of candidates in accordance with their residence in two- or three-county Congressional districts caused many elections to turn on issues other than ones involving national Reconstruction. He thus challenges the assumption that the 1866 election was a radical sweep, even suggesting that in many cases candidates were rejected regardless of their stance on Reconstruction.

Since Richard E. Neustadt's work was mentioned in the historiographical introduction to the *Lincoln Lore* article on Johnson's impeachment, perhaps his most recent work deserves notice. In *The New York Times Magazine* of October 14, 1973, Neustadt reconsiders presidential power in an article entitled "The Constraining of the President."



From the Lincoln National Life Foundation

The Declaration of Independence rejected the rule of a monarch, and Americans ever since have pictured Presidents who seem to exceed their official powers as kings. Thomas Nast drew Andrew Johnson as King Richard III for the *Harper's Weekly* of July 25, 1868. Johnson was made to appear as Shakespeare's despot searching for any horse to ride to power, whether it be a Republican, Democratic, or Conservative horse. The cartoon appeared after the Democratic Convention of 1868 nominated Horatio Seymour to run for the presidency.



Lincoln Lore

Bulletin of The Lincoln National Life Foundation...Mark E. Neely, Jr., Editor Published each month
November, 1974 by The Lincoln National Life Insurance Company, Fort Wayne, Indiana 46801

Number 1641

Robert Dale Owen, “an intelligent, disinterested, and patriotic gentleman.”

By the middle of the twentieth century, the study of slavery was thought by many to have reached a stalemate. Slaves did not leave their own written record, and the record written by their masters and by outside travellers, visitors, and observers had been milked for all it was worth. In every case, this indirect evidence boiled down to a matter of interpretation. Plantation records, for example, frequently contained complaints that slaves were sloppy workers, that they abused the animals, that they broke a lot of hoes. Historians of one political or social persuasion said that this was a form of sabotage by which slaves showed their resentment at what they knew to be their unnatural and unjust condition. Historians of another persuasion claimed that it meant that slave labor was simply unskilled and inefficient. The argument could go on endlessly because the body of fact on which the interpretation was based did not grow. There was very little new information after Ulrich B. Phillips did his pioneering work from plantation records in the 1910's.

Since that time, however, there have been two significant developments which have made the study of slavery livelier than ever. The first came with the publication in 1947 of Frank Tannenbaum's slender little volume entitled *Slave and Citizen* (New York: Knopf). Tannenbaum's idea was that something new could be said about slavery if it was examined on a comparative basis. That is, the same old facts that had been argued about for so long could be seen in a new and revealing light if they were compared to the facts from slave cultures other than that of the antebellum southern United States. The result of the application of this apercu to studies of slavery was, by and large, the judgment that North American slavery was the harshest ever practiced in the world, that the black man in antebellum Mississippi, say, was unique in world history because of the degree to which his status had been reduced to that of a chattel, the master's private property. The North American slave had really become a thing, in short. By contrast, Brazilian slaves had lived in a Catholic country with a feudal heritage (via Spain), and they benefited from the relative strength that hoary institutions traditionally exercised over the efforts of individual citizens. The church demanded that slave marriages be solemnized, the parish priest visited the plantations to hear of abuses of slaves by masters, the punishments an

owner could mete out to his private property were limited by law, and in general the will of the individual was restrained from reducing the slave's humanity to chattel-dom.

The sort of insight that could be gained from old forms of evidence is illustrated by Stanley Elkins's controversial book *Slavery* (Chicago: University of Chicago Press, 1959). He addressed the old problem of whether broken hoes meant sabotage or slovenliness by invoking the comparative perspective. North American slavery was so brutal that it resembled the conditions in Nazi concentration camps, said Elkins. In those camps there had been little rebelliousness or sabotage because the inmates had been "infantilized"; they had become virtual children with no will to resist paternal authority. This explanation accounted for the relative infrequency of slave revolts in the United States as compared to Brazil. Rebellion feeds on hope. Ironically therefore, Brazil experienced countless huge uprisings, whereas the United States had only three. The "revolts that actually did occur," said Elkins of the North American experience, "were in no instance planned by plantation laborers but rather by

Negroes whose qualities of leadership were developed well outside the full coercions of the plantation authority system. Gabriel, who led the revolt in 1800, was a blacksmith who lived a few miles outside Richmond, Denmark Vesey, leading spirit of the 1822 plot at Charleston, was a freed Negro artisan who had been born in Africa and served several years aboard a slave-trading vessel; and Nat Turner, the Virginia slave who fomented the massacre of 1831, was a literate preacher of recognized intelligence."

The second great development in recent studies of slavery was less a result of historical insight than of technology. Historians have begun to apply modern tools of quantification to the study of slavery. Thus they can give proper statistical weight to the evidence chosen selectively by previous historians, and they can look at the institution itself more than at the description of the institution left by masters and outside observers. The results are just beginning to appear, and some of them are quite startling. Robert William Fogel and Stanley L. Engerman, for example, argue in *Time on the Cross: The Economics of American Negro Slavery* (Boston: Little, Brown, 1974) that the slave family was stable and patriarchal, that such families were



Courtesy of the Indiana Historical Society Library

FIGURE 1. Robert Dale Owen (1801-1877) was born in Glasgow but came to the United States when he was twenty-four. For years he lived at New Harmony, Indiana, where his father had established an experimental social community. In his youth, Owen worked for liberal divorce laws, equalization of wealth, and free thought, but his zeal to abolish slavery came only late in his life.

rarely shattered by the domestic slave trade, that fully 25 percent of male slaves were managers and artisans rather than field hands, that slave agriculture was profitable and more efficient than free agriculture, and that it was so because the black laborer was a good laborer and not a saboteur or slovenly incompetent.

One particular aspect of the current mania for figures has been a reevaluation of the incidence and effects of the African slave trade. The result was simple: Brazilian and West Indian slavery was sustained throughout their careers by fresh importations of African slaves. In the United States, slavery grew by natural increase. After 1808, the trade was forbidden by the constitution, and most states outlawed it well before that date. The implications of these results, however, are complicated. For one thing, they seem to reverse the insights of the original practitioners of the comparative approach: hoary institutions or no, other slave cultures seem to have burned up their slaves in five to seven years and simply ordered new ones for replacement. In the United States, on the other hand, slaves were treated paternalistically enough for the system to thrive by the natural increase of the slave population. For another, the relative incidence of slave revolts seems to be a function of acculturation rather than harshness of the regime. Africans revolted, and Americans (for most slaves in the nineteenth century United States were second, third, and fourth generation Americans) did not.

The newness and sophistication of these arguments about the nature of slavery make all the more remarkable the arguments in a book which preceded by a century the recent musings on the comparative descriptions of and the impact of the slave trade on slavery in the Western Hemisphere. The book is *The Wrong of Slavery[,] the Right of Emancipation[,] and the Future of the African Race in the United States* (Philadelphia: J.B. Lippincott, 1864). The author of the book was Robert Dale Owen, son of the famous British utopian reformer and former Democratic Congressman from Indiana.

The great British philanthropist's son had long ago compromised his utopian inheritance to the vanishing point, and he had never before been an enthusiast of the black man's cause. Richard William Leopold's *Robert Dale Owen: A Biography* (Cambridge: Harvard University Press, 1940) is a portrait of a good Democrat who shared the party's typical enthusiasms for the annexation of Texas and the Mexican War, and its detestation of Negroes and abolitionists. When Indiana wrote a new state constitution in the winter of 1850-1851, Robert Dale Owen, delegate to the constitutional convention, reported the provision which forbade Negroes and mulattoes from settling in Indiana or buying real estate there. For those Negroes unfortunate enough to be left in the state after the constitutional provision passed (as it did), Owen urged a liberal appropriation of funds for "colonization," that is, voluntary exportation out of the state and to Africa.

During the Civil War, however, Owen began to run with a different crowd. As a loyal Democrat who supported the war and as a sixty-year-old man whose more partisan past seemed behind him, Owen gained an appointment on May 30, 1861 by Governor Oliver P. Morton as Indiana's purchasing agent for ordnance. This brought him into immediate contact with a governor who was a zealous supporter of the Republican cause, and it brought him into eventual contact with the War Department in Washington and its head, Edwin M. Stanton. Owen impressed Stanton enough that less than a year after his Indiana appointment—on March 13, 1862—Stanton appointed him and another War Democrat, Joseph Holt of Kentucky, as auditors of "all contracts, orders, and claims on the War Department, in respect to ordnance, arms, and ammunition."

By the autumn of 1862, Owen was badgering the administration with advice, particularly with the advice that, to avoid a military coup d'état, Lincoln should emancipate the slaves by virtue of his power as Commander-in-Chief. He also urged Congressional legislation to end slavery in the Border States by a policy of federally compensated emancipation. A year and three days after his first appointment by Stanton—on March 16, 1863—Owen had proved to be a sufficiently promising pupil of Republican reform ideas that Stanton appointed him, along with James McKaye and Samuel Gridley Howe, to the American Freedmen's Inquiry Commission.

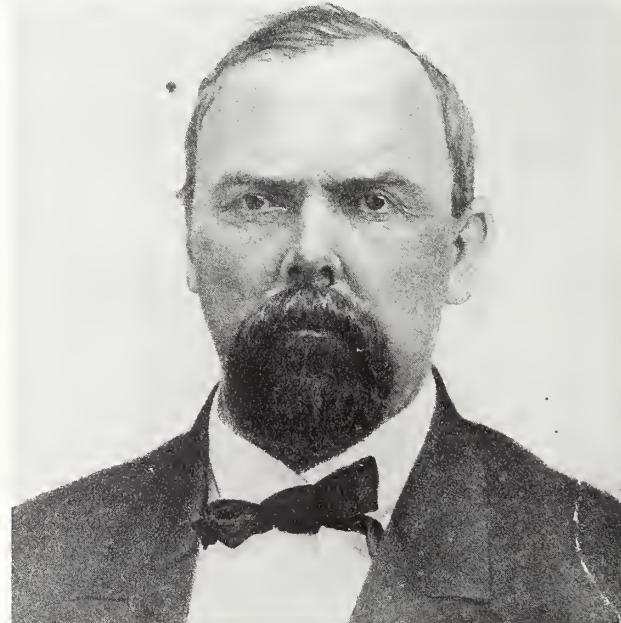
The American Freedmen's Inquiry Commission, according to James M. McPherson's *The Struggle for Equality: Abolitionists and the Negro in the Civil War and Reconstruction* (Princeton: Princeton University Press, 1964), was for the

most part the abolitionists' brain-child. For some time even before the Emancipation Proclamation they had advocated a federal bureau to formulate and administer a uniform national policy towards the freedmen. Philadelphia abolitionist J. Miller McKim was particularly insistent that a commission should be established to issue a report on the status of the freedmen. Thaddeus Stevens wanted a congressional commission, but Charles Sumner and Stanton thought an executive commission could be set up more quietly without debate in Congress. Stanton purposely avoided appointing an abolitionist of the Garrison school and made the moderate Democrat Owen the chairman of the commission.

Owen wrote the reports of the American Freedmen's Inquiry Commission. The final report was submitted in May of 1864, after months of travel, hearing testimony, and consultation with men who had been dealing with the problem to date. President Lincoln does not seem to have had a direct hand in the appointment of the commission, though of course he was aware of its work and aided it. On one particular occasion, Chaplain John Eaton, who had served with Grant in Mississippi and to whom Grant had disclosed his plan to colonize certain plantations with freedmen to "become a Negro paradise," called on President Lincoln in the summer of 1863. Eaton found Lincoln "keen in his investigation of the personal traits of certain Negroes, the circumstances of whose lives had brought them into prominence. He questioned me in regard to those who were coming into our lines: What was their object; how far did they understand the changes that were coming to them, and what were they able to do for themselves? At this time, it must be remembered, the Negro character was a subject about which, among Northerners, at least, the wildest conjectures were current." At the end of their second meeting the next day, Lincoln informed Eaton "that he desired me to report to a committee, composed of Dr. S.G. Howe of Boston, the well-known philanthropist, Colonel McKaye of New York, and Robert Dale Owen of Indiana, a former member of Congress. Mr. Lincoln had previously told me of this body, which, he said, had been appointed to consider the entire subject of our policy toward the Negro in the present emergency. The Commission—known officially as the American Freedmen Inquiry Commission—had recently been in conference in New York, and the President desired me to go there and meet them."

Owen's principal work for the commission was drafting its reports and doing considerable research into what today would be called black history. The final report, slightly clarified and modified, formed the substance of Owen's book, *The Wrong of Slavery*, and it was in part the embodiment of Owen's historical research.

Owen was diligent in his research. The book has footnotes in Spanish, French, and Latin. He borrowed the library of



From the Indiana Division, Indiana State Library, Indianapolis
FIGURE 2. Oliver P. Morton

Benjamin P. Hunt, a Philadelphian whose library was "rich in works on West Indian history and emancipation." The result was a remarkable section, comprising about half of the book, which explored the origins of slavery in the Western Hemisphere.

Owen attributed the origins of the institution largely to Spain and to the misguided philanthropy of Bartolomeo de las Casas, a Dominican monk who thought that the miseries of the enslaved Indians in Hispaniola could be alleviated by substituting "a hardier race," the Negroes from the Portuguese settlements on the African coast, as the slaves of the Spanish. Owen attributed slavery to the Spanish desire for gold and labor to mine it, but he stopped short of urging what some recent American historians have suggested: the seventeenth-century English colonists read Spanish books to know how to cope with the New World, therefore they expected to employ the Indians for labor, and they substituted blacks as early as 1619 when they found that the Indians were too recalcitrant.

On the origins of slavery in what would become the United States, Owen was vague. All he did was to repeat the charge that had become the standard salve of the American conscience: that Great Britain had somehow forced slavery on the American colonies. This charge was lifted from George Bancroft's monumental *History of the United States* and allowed Owen to evade the issue by such indirect statements as this one: "The agency of the British Government in fastening slavery upon the Continental colonies is well known." Bancroft had seized upon late-eighteenth-century protests by colonial legislatures against the continuing importation of African slaves into the colonies. By that time, of course, fresh importations decreased the value of the slaves already held in the colonies; moreover, the tobacco industry suffered from chronic overproduction which vastly depressed the price. Bancroft managed to put a more humanitarian face on what was nakedly an argument from the elite's economic self-interest by saying that the "English Continental colonies [Owen quoted Bancroft's passage] were, in the aggregate, always opposed to the African slave-trade." Owen did not question Bancroft's "always," and, though born in Great Britain himself, he concluded that "In the entire history of Great Britain there is scarcely a more disgraceful page."

All of this was conventional, but Owen's research brought him to less conventional and to less convenient conclusions. Making rough computations of the volume of the slave trade from the available sources, Owen was left with this very tough fact to interpret: "THE HALF-MILLION SHIPPED FOR NORTH AMERICA HAVE INCREASED NEARLY NINEFOLD,—being represented in 1860 by a population exceeding four millions four hundred thousand; while THE FIFTEEN MILLIONS SENT TO THE WEST INDIAN COLONIES AND TO SOUTHERN [i.e., South] AMERICA HAVE DIMINISHED, FROM AGE TO AGE, until they are represented now by LESS THAN HALF THEIR ORIGINAL NUMBER!" Although he arrived at the same basic insight that modern writers have reached, Owen considerably overestimated the number of slaves imported into the West Indies and Latin America; his estimate for that portion of the world alone is some five million higher than the most recent estimates of the total number of slave importations including the United States. These recent estimates, however, admit to the possibility of an error as great as 20 percent. If they erred low, then Owen was some 4.2 million off. Nevertheless, Owen showed an interest in the broad view of slavery as a more than national phenomenon. The disparity in numbers between the United States's experience and that of the other areas in the Western Hemisphere was so great that even a gross computational error like Owen's could not miss the basic point: a tiny island like Jamaica or Cuba imported more slaves than the whole of the United States! There was a fundamental difference in the nature of slave societies, and it was a difference which it was *not* convenient for Owen to take note of.

After all, Owen wrote in the midst of the Civil War at the behest and in the pay of an administration that was by that time committed by a fait accompli to the policy of emancipation and to a war against slavery. The second of the three sections of Owen's book was in fact a justification of administration emancipation policy from the standpoint of constitutional law, international law, and (at times) natural justice. It was not particularly helpful to find fairly compelling evidence that slavery as practiced in the United States was a good deal more benign than slavery as practiced anywhere else in the Western World.

Owen did in fact balk at the inevitable conclusion but he did not blink it away. Chapter IX he entitled "Touching the Causes of Certain Marvellous Results," and there he grappled with his "results so extraordinary, at first sight so incredible,—and, in effect, even when thoroughly examined, so difficult of satisfactory explanation,—that I have devoted much time and labor to the critical revision of the materials whence my conclusions are drawn, before venturing to place them on record." The answer was not to be found "solely in the greater humanity with which the negroes of the United States have been treated, as compared with those of other slave countries." He attributed the poor rate of natural increase in other cultures to the disparity in sexes caused by relying heavily on the African slave trade. Such reliance brought greater numbers of males than females, but, Owen had to admit, female slaves were available and would have been supplied had the planters asked for them. At least the cruelty of maintaining a regime short of women had to be attributed to the other cultures, as did the cruelty which has so caught the attention of recent scholars:

The slave-trade had another, still more sinister influence. It is beyond a doubt that wherever that trade prevailed it tended directly to aggravate the condition and to shorten the lives of the plantation slaves. This happened because it increased the temptation to cruelty and overwork.

The thorough Owen then quoted a passage from a book by two American visitors to Brazil which has found a prominent place in a recent prize-winning book on the subject (Carl Degler's *Neither Black Nor White: Slavery and Race Relations in Brazil and the United States* [New York: Macmillan, 1971], page 74): "Until 1850, when the slave-trade was effectually put down, it was considered cheaper on the country plantations to use up a slave in five or seven years and purchase another, than to take care of him. This I had in the interior from native Brazilians, and my own observation has confirmed it."

Owen's heritage of benevolence prevented him from accepting completely the evil implications of the second factor

As to the second influence, growing out of the temptation gradually to work to death laborers who can be replaced any day by fresh purchases, it is hard to believe that it should have exerted over human cupidity so terrible a sway as to cause the reduction to seven and a half millions of men of a population which, had they been treated and had they thriven but as well as the slaves of the United States, would have numbered to-day ninety-eight millions of souls.

Owen was aware that another factor, the "habitual absenteeism of many of the proprietors" of plantations in the West Indies, left the slaves "at the mercy of overseers, often uncultivated and mercenary, who had no interest in their preservation so long as those who died could be profitably replaced by what were called 'new negroes.'" Overseers were most often unmarried men who knew little about caring for pregnant females.

Almost in desperation, Owen suggested that climate might explain the differences in the experience of slave populations. He had to admit, however, that "there is no evidence to show that the climate of the West Indies and of Brazil is less suited, or more fatal, to the negro than that of our Slave States." The most recent writers on the subject, Fogel and Engerman in *Time on the Cross*, have been forced to practically the same speculations. "To Americans who have a penchant for finding the silver linings of clouds," say Fogel and Engerman, "it is tempting to cast the explanation in terms of the relative humanness of the treatment of slaves in the U.S. colonies." Fogel and Engerman, however, suggest the importance of the role of the "epidemiological environment" of the West Indies, where "Malaria, yellow fever, tetanus, dysentery, smallpox, and a score of other diseases were more widespread and more virulent" than in temperate climates. They also stress the disproportionately high male population in a culture that fed on the slave trade rather than on natural increase, but they do not delve as deeply as Owen on this point. That nineteenth-century student of the slave trade quoted evidence from traders that female slaves were readily available, and he did not fail to identify the cruelty of a deliberate imbalance in sexual make-up of the population.

In the end, Owen simply threw up his hands in despair: "Upon the whole, however, it must be confessed that, while the general facts in this case are indisputable, the explanations we have so far suggested seem inadequate to account for the extraordinary results we have disclosed." Owen should

not be condemned for his indecisiveness on the meaning of his population estimates. Modern authorities still disagree. Carl Degler maintains that the figures show the peculiar benevolence of the United States's peculiar institution. Fogel and Engerman call Degler's reasoning an optimistic search for silver linings and then further confuse matters by arguing in the rest of their own book that many of the evils the abolitionists denounced—disruption of the family, slave breeding farms, inefficient labor—were exceptions to the statistical rule for American Negro slavery.

Moreover, Owen had an immediate political—almost military—reason not to find any silver linings in the cloud of American slavery. He grudgingly granted "success in this country, so far as the mere physical increase of the slave population can attest the fact," but "no further."

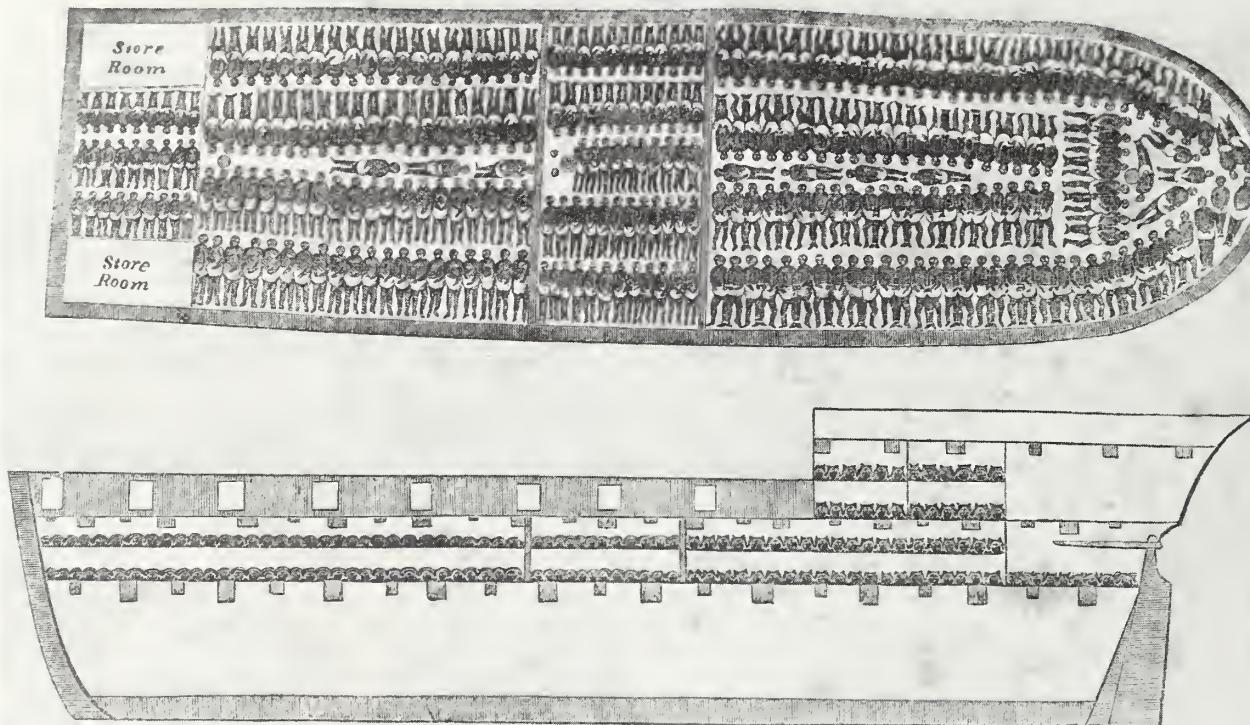
... population has increased in the world in spite of ceaseless wars, in spite of constant vice and misery. It increased in famine-stricken Ireland. It increased in England throughout the term of that feudal system which made of the island one great military camp. It increased in France throughout the centuries of that old régime of which the insufferable iniquities were at last requited by popular vengeance and culminated in the first Revolution.

Owen was an employee of the War Department. He had every reason, therefore, not to publish anything that could be construed as an apology for the Confederate cause. It is a credit

to the independence of his intellect that he did publish the results of his research into black history.

Owen's intellect has not been much celebrated to date. His biographer, Leopold, says that he did not have "a strikingly original mind." McPherson repeats the charge in his treatment of the reports of the American Freedmen's Inquiry Commission. He treats Owen's work as a mere distillation of "the results of thirty years of abolitionist research and reflection." John G. Sprott wrote a twenty page article on the report in the *Journal of Southern History* in 1957, but he, like Leopold and McPherson, ignored Owen's treatment of the slave trade and characterized the report as standard Radical Republican fare. George Fredrickson in *The Black Image in the White Mind* (New York: Harper & Row, 1971) also treats Owen's work as the distillation of a standard view of the black man in America.

Whether historians have underestimated Owen's intellect or not, they have certainly underestimated the complexity of his view of *The Wrong of Slavery and the Right of Emancipation*. He stubbornly published what his diligent historical research revealed, even though the results of that research somewhat undermined his case for emancipation and war. Owen truly lived up to Abraham Lincoln's appraisal of him (in a letter to James W. Ripley on June 22, 1861) as "an intelligent [sic], disinterested, and patriotic gentleman."



DECKS OF A SLAVE SHIP.

From the Lincoln National Life Foundation

FIGURE 3. This diagram of the lay-out of a slave ship was published in W.O. Blake's *History of Slavery and the Slave Trade, Ancient and Modern* (Columbus, Ohio: H. Miller, 1860). Quoting heavily from the "Report of the Lords of the Committee of Council, appointed for the consideration of . . . the present state of the trade to Africa," (1789), Owen recounted the horrors of the African slave trade. One slave captain, "seventeen years in the slave trade," said a fair average of the width allotted each slave on his decks was $14\frac{2}{3}$ inches. Other estimates ranged as high as 16 inches. Owen himself estimated one captain's allotment at just $12\frac{1}{2}$ inches.

This is a printer friendly version of an article from **Pal-Item.com**
To print this article open the file menu and choose Print.

[Back](#)

Article published Sep 13, 2005
200 years of Richmond history

Sept. 13, 1877

The President of the United States made a heartfelt visit to his sick friend when he was dying in Richmond, to say goodbye and to thank the man Abraham Lincoln credited as being one of the major reasons the Union won the Civil War.

Hundreds of people lined the Richmond streets around the railroad depot the morning President Rutherford B. Hayes arrived, and remained subdued as he was ushered from his railroad car to a private carriage. The crowd followed, falling back respectfully.

Sen. Oliver Morton, former Indiana governor, was lying seriously ill at his mother-in-law's house at 115 N. 12th St. A Cincinnati Enquirer reporter wrote, "Entering rapidly from the front door to the bedside, with quivering lip and evidence of strong mental emotion, the President grasped the warm right hand of the Senator and with the single exclamation, 'My dear, dear friend,' bowed his manly head over the semi-prostrate form... and for a moment the two great men, whose voices have swayed the nation, were silent, unable to speak."

President Hayes assured Sen. Morton that his thoughts were with him daily, and he looked forward to visiting again. Morton expressed concern about the affairs of the country and said that he hoped he would be able to take his seat in Congress in December "to assist you, Mr. President, and support your wise policy for the welfare of the nation."

Morton's physician suggested they cut the conversation short. It was then "the President's emotion again overpowered him. Great choking sobs swelled up in his throat, the tears chased one another down his cheeks, he vainly tried to express his feelings in words, and seizing the Senator's hand he pressed it long between his own, imparted another kiss upon his forehead, and with choking utterances bade him an earnest, agonizing farewell, and hurried from the room sobbing aloud."

Morton died on Nov. 1 in Indianapolis. While in Richmond, he had been visited by his friend, the President of the United States. Abraham Lincoln credited Gov. Morton's timely raising of funds at the start of the Civil War for ultimately being one of the major reasons the Union won.



July 18, 2010

Oliver Morton guided state, nation

*By Rachel E. Sheeley
Staff Writer*

The efforts of Indiana's Wayne County-born governor during the Civil War earned the praise of President Abraham Lincoln.

"Had it not been for Gov. Morton sending money and men to the front when most needed, the war probably would have been lost," Lincoln said.

The state's first native-born governor, Oliver Hazard Perry Throck Morton, was born in the Wayne County community of Salisbury on Aug. 4, 1823. His mother died when he was three years old and he was raised by two aunts, Polly and Hannah Miller.

He moved to Centerville as a teenager, where he was an apothecary's clerk and learned the hatter's trade.

Morton went on to attend the Wayne County Seminary in Centerville and Miami University in Oxford, Ohio.

In 1845, Morton began to study law with John Newman and later was associated with Nimrod Johnson.

He was elected circuit judge in 1852, and at age 30, he attended the Cincinnati Law School.

Morton bought the house at 313 W. Main St. (U.S. 40) in Centerville in 1856. The house was built in 1848 by Jacob Julian, younger brother of George W. Julian.

Morton, one of the founders of the Republican Party, was appointed Indiana's governor in January 1861 and was re-elected in 1864.

He supported President Lincoln throughout the Civil War, defying Indiana's Democratic-controlled legislature, whose members created a bill that would strip his powers, and leave the militia's role in the hands of a board dominated by people who wanted an end to the strife at any cost.

Morton did not stand by idly. He talked to Republican legislators, who secretly began leaving the state capitol. When the bill came to the floor, the legislature lacked the two-thirds majority it needed for a vote.

The state also lacked a budget bill to continue tax support for the state. Morton stood strong for two years, never bringing back the legislature for a special session because the state needed more than \$1 million.

He solicited it on his own -- gaining half from Indianapolis banks and soliciting more from Richmond-born James Morrisson, who procured the rest on credit and sent it by train from Cincinnati. The state later repaid those debts.

When Lincoln called for states to contribute 75,000 volunteers to the war cause, Morton responded the same day, "On behalf of the state of Indiana I tender to you for the defense of the Nation and to uphold the authority of government, 10,000 men."

By the end of the war, Indiana had contributed 208,000 men, and Morton had gained a reputation as a "soldier's friend."

Morton did it all for the country.

"In view of the solemn crisis in which we stand, all minor, personal and party considerations should be banished from every heart," Morton said in one of his many eloquent speeches. "There should be but one party, and that the party of the Constitution and the Union. No man need pause to consider his duty. It is no time for hesitation; the man who hesitates under circumstances like these is lost."

In 1864, the state legislature sent Morton to Washington as a senator.

There, his reconstruction speech, historians say, created policy and guided constitutional amendments as Congress readmitted the states.

"If there is one duty resting upon this Congress more sacred and more solemn than every other, it is to protect the loyal men of the South," Morton told senators, championing the rights of both black and white Southerners in legislation.

During his political career, Morton suffered some poor health, battling paralysis that likely resulted from a stroke.

He persevered, holding his Senate seat until 1877, with assistants sometimes carrying him in his chair to sessions of Congress.

Morton was on a political tour of the West when he became ill on Aug. 6, 1877, again with symptoms of paralysis -- by modern standards, a second stroke.

Morton's private train car returned him to Richmond, to the 115 N. 12th St. home of his mother-in-law, Mrs. Isaac (Elizabeth) Burbank, and his brother-in-law, John Burbank. John Burbank had served as governor of the Dakota territory from 1869 to 1874.

During his illness, Morton was visited in Richmond by many politically prominent people. Rutherford B. Hayes, the 19th president, who came on Sept. 13, 1877. An account of the visit in the book, "The Life of Oliver P. Morton" by William Dudley Foulke, notes that Hayes "kissed the senator, biding him farewell and hastened away, sobbing as soon as he had left the chamber."

Hayes and Morton were close political friends. When Morton's nomination for president failed, he had his supporters back Hayes, who won the Republican presidential nomination in 1876.

The popular vote in that presidential race was 4,300,000 for New York Gov. Samuel Tilden to 4,036,000 for Hayes. According to Hayes' biography at www.whitehouse.gov, Hayes's election depended upon contested electoral votes in Louisiana, South Carolina, and Florida. If all the disputed electoral votes went to Hayes, he would win; a single one would elect Tilden.

In January 1877, Congress established an Electoral Commission to decide the dispute. The commission, made up of eight Republicans -- including Morton -- and seven Democrats, determined all the contests in favor of Hayes by eight to seven, making the final electoral vote: 185 to 184.

As president, Hayes offered Morton a position in his cabinet, but Morton chose to stay in the Senate and to advise the president when needed.

On Oct. 15, 1877, Morton felt well enough to return to his Indianapolis home, where he died on Nov. 1.

1877. He is buried at Crown Hill Cemetery in Indianapolis.

Morton is memorialized with a statue in front of the Indiana State House facing Monument Circle where another likeness is part of the Indiana Soldiers' and Sailors' Monument.

He also is memorialized with statues in the National Statuary Hall at the United States Capitol, in the Wayne County Courthouse and at Indiana's memorial Vicksburg National Military Park in Vicksburg, Miss.

In marking the 170th year since Morton moved to Centerville, a tree-planting was organized on May 15, 2009, at his former home on U.S. 40 on Centerville's western end.

A tulip tree, the state tree, was planted by Morton's great-great-grandson, Stephen Santarelli de Brasch of Hamilton, Mass. A state historical marker also marks the site.
